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In the Matter of the Claim of

DIANE PERITZ,

Claimant,

vs.

BOARD OF COOPERATIVE EDUCATION SERVICES
OF NASSAU COUNTY, BONNIE HELLER, Principal
of Nassau BOCES Rosemary Kennedy School,
JANET WEISEL, Supervisor of Occupational
Therapists,

Respondents.

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DEPOSITION OF DIANE PERITZ

Garden City, New York

Tuesday, April 19, 2016

REPORTED BY: Gail M. Mascaro

Magna Legal Services

866-624-6221

www.MagnaLS.com

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2
3 April 19, 2016
4 9:40 a.m.

5
6 Deposition of DIANE PERITZ, held at
7 Nassau BOCES, 71 Clinton Road, Garden City,
8 New York, before Gail M. Mascaro, a Notary
9 Public of the State of New York.
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1 Peritz
2 DIANE PERITZ, called as a
3 witness, having been duly sworn by
4 a Notary Public, was examined and
5 testified as follows:
6 EXAMINATION BY
7 MS. RUDNICKI:
8 Q. Please state your full name for the
9 record.
10 A. Diane Peritz.
11 Q. What is your address?
12 A. 112 Holiday Drive, Woodbury, New
13 York 11797. 09:37:56
14 Q. Good morning, Miss Peritz. 09:37:56
15 A. Hi. 09:38:01
16 Q. My name is Karen Rudnicki, I'm an 09:38:01
17 attorney with Silverman & Associates and we 09:38:03
18 represent Nassau BOCES regarding the claim 09:38:06
19 you brought in your notice of claim, so today 09:38:08
20 we're going to discuss the notice of claim 09:38:10
21 and the facts underlying it. Okay? 09:38:12
22 A. Okay. 09:38:14
23 Q. If at any point you don't 09:38:14
24 understand my question please let me know and 09:38:16
25 I will rephrase it. Okay? 09:38:18

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2 APPEARANCES:

3
4 LAW OFFICE OF MINDY KALLUS
5 Attorneys for Claimant
6 3220 Netherland Avenue, 5D
7 Bronx, New York 10463
8 BY: MINDY KALLUS, ESQ.
9

10 SILVERMAN & ASSOCIATES
11 Attorneys for Respondents
12 445 Hamilton Avenue, Suite 1102
13 White Plains, New York 10601
14 BY: KAREN C. RUDNICKI, ESQ.
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1 Peritz
2 A. Yes. 09:38:20
3 Q. You have to give verbal answers so 09:38:22
4 that the court reporter can make -- 09:38:24
5 A. Yes, okay. Yeah, I realize now. 09:38:26
6 Q. -- an accurate record. Also, 09:38:27
7 please wait until I'm finished with the 09:38:30
8 question before you answer again to enable an 09:38:31
9 accurate record to be taken. If you do 09:38:33
10 answer a question and you don't indicate that 09:38:36
11 you don't understand it, it will be assumed 09:38:37
12 that you understand it. Okay? 09:38:40
13 A. Yes. 09:38:42
14 Q. If at any point you need to take a 09:38:43
15 break just let me know, I'll just ask that 09:38:46
16 whatever question is pending you answer it 09:38:48
17 before we take the break. Okay? 09:38:50
18 A. Okay. 09:38:52
19 Q. Could you give me your date of 09:38:52
20 birth, please? 09:38:54
21 A. [REDACTED] 1957. 09:38:55
22 Q. So, Miss Peritz, you understand 09:39:00
23 that when the reporter asked you to raise 09:39:03
24 your right hand that you swore to tell the 09:39:05
25 truth? 09:39:08

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1 Peritz

2 A. Of course. 09:39:08

3 Q. Have you taken any medication in 09:39:09

4 the last 24 hours? 09:39:10

5 A. Yes. 09:39:11

6 Q. What did you take? 09:39:11

7 A. I take two pills for high blood 09:39:13

8 pressure. 09:39:17

9 Q. But, nothing that would impair your 09:39:17

10 ability to recall facts or to answer 09:39:20

11 questions truthfully? 09:39:22

12 A. No. 09:39:23

13 Q. And have you used any alcohol or 09:39:23

14 recreational drugs in the last 24 hours? 09:39:26

15 A. No. 09:39:29

16 Q. Are there any medications that you 09:39:29

17 generally do take that you haven't taken? 09:39:31

18 A. No. 09:39:33

19 Q. And do you have any other 09:39:34

20 conditions or impairments that would prevent 09:39:37

21 you from answering questions truthfully or be 09:39:41

22 able to recall facts? 09:39:45

23 A. No. 09:39:46

24 Q. You've given your present address 09:39:46

25 as Woodbury, New York? 09:39:49

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1 Peritz

2 A. Yes.

3 Q. How long have you lived there? 09:39:51

4 A. I've lived there about, I don't 09:39:52

5 know, 16 years maybe, maybe more. 09:39:59

6 Q. And it's a house or an apartment? 09:40:01

7 A. It's a house, but it's a 09:40:02

8 condominium. 09:40:06

9 Q. Do you own it or rent it? 09:40:06

10 A. I own it. 09:40:08

11 Q. And before that, where did you 09:40:09

12 live? 09:40:11

13 A. I lived in Manhattan. 09:40:11

14 Q. Do you live with anyone at your 09:40:13

15 present address? 09:40:16

16 A. No. 09:40:17

17 Q. Are you married? 09:40:18

18 A. No. 09:40:19

19 Q. Have you ever been married? 09:40:19

20 A. No. 09:40:21

21 Q. Do you have any children? 09:40:21

22 A. No. 09:40:22

23 Q. Do you have a Social Security 09:40:23

24 number? 09:40:24

25 A. Yes. 09:40:24

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1 Peritz

2 Q. For privacy reasons I'll only ask 09:40:25

3 that the last fourth be placed on the record, 09:40:28

4 but if you would please give me the full 09:40:30

5 Social Security number? 09:40:32

6 A. [REDACTED] 09:40:32

7 Q. Before testifying here today, did 09:40:49

8 you do anything to prepare? 09:40:52

9 A. Yes. 09:40:54

10 Q. What did you do? 09:40:55

11 A. I met with my attorney. 09:40:56

12 Q. Did you review any documents? 09:40:58

13 A. Just the -- is it called the notice 09:41:01

14 of claim? 09:41:05

15 Q. Did you speak with anyone else 09:41:05

16 besides your attorney? 09:41:07

17 A. No. 09:41:08

18 Q. Miss Peritz, what is your highest 09:41:10

19 level of education? 09:41:12

20 A. I have two master's degrees in 09:41:13

21 occupational therapy and one is in 09:41:19

22 communication, arts, and sciences. 09:41:22

23 Q. Where did you receive the master's 09:41:26

24 in occupational therapy? 09:41:28

25 A. New York University. 09:41:30

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1 Peritz

2 Q. What year did you get that? 09:41:31

3 A. Do you want me to guess? 09:41:35

4 Q. No. If you don't remember, that's 09:41:36

5 fine. 09:41:38

6 A. Somewhere like '98 or something, 09:41:38

7 but that's a guess, in that range. 09:41:43

8 Q. And your communication, arts, and 09:41:46

9 sciences degree, where did you get that from? 09:41:50

10 A. 1980, also NYU actually. 09:41:52

11 Q. Did you attend undergrad? 09:41:57

12 A. Yes. 09:41:59

13 Q. Where did you attend? 09:41:59

14 A. Queens College. 09:42:01

15 Q. What degree did you receive there? 09:42:03

16 A. Communication, arts, and sciences. 09:42:05

17 Q. And it was a bachelor's? 09:42:09

18 A. Yes. 09:42:10

19 Q. Do you have any certifications from 09:42:12

20 The New York State Education Department? 09:42:15

21 A. As an OT? 09:42:19

22 Q. As anything. 09:42:21

23 A. I don't know if that's -- I guess 09:42:24

24 they do certify me as an OT. 09:42:27

25 Q. Your understanding is that The 09:42:30

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1 Peritz
2 New York State Education Department certifies 09:42:32
3 you as an OT? 09:42:34
4 A. You know what, I'm not sure really 09:42:35
5 who exactly -- there's NBCOT that certifies 09:42:38
6 me as an OT and I think there's something 09:42:42
7 with the education society, but it's -- I 09:42:48
8 think it's broken down by discipline, but I 09:42:51
9 would need to check at home. 09:42:55
10 Q. And you said "NBCOT"? 09:42:57
11 A. Yes. 09:43:00
12 Q. What does that stand for? 09:43:00
13 A. National Board of Certified 09:43:02
14 Occupational Therapists. 09:43:08
15 Q. So you are a certified occupational 09:43:08
16 therapist? 09:43:12
17 A. Oh, yeah. 09:43:12
18 Q. Whether it's with NBCOT or The New 09:43:13
19 York State Education Department you're not 09:43:17
20 certain? 09:43:18
21 A. Right. Well, I'm definitely 09:43:18
22 certified with NBCOT. 09:43:21
23 Q. Any other certifications? 09:43:24
24 A. I have a -- it's called an OTR 09:43:25
25 which is occupational therapist registered 09:43:29

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1 Peritz
2 and when you originally graduate you have to 09:43:33
3 take a licensing exam and I have a New York 09:43:37
4 State license also I guess. Yes, New York 09:43:41
5 State license, and then I'm certified in 09:43:46
6 sensory integration, and that's all the 09:43:49
7 certifications. 09:43:56
8 Q. Are you currently employed? 09:43:58
9 A. I'm not employed, but I'm working, 09:44:00
10 so I don't know how to answer that. 09:44:04
11 Q. Where are you working? 09:44:06
12 A. I'm working under my own practice, 09:44:08
13 I'm doing early intervention, school age, 09:44:12
14 preschool, and medically involved children 09:44:17
15 for St. Mary's. 09:44:22
16 Q. And what is St. Mary's? 09:44:23
17 A. St. Mary's is St. Mary's Hospital 09:44:25
18 for Children, it's in Bayside, and they have 09:44:27
19 a home care agency for children that have 09:44:31
20 medical or significant developmental 09:44:36
21 impairments and they get services after 09:44:41
22 school if they go to school and many of them 09:44:45
23 do. 09:44:48
24 Q. And so you work with these children 09:44:48
25 at their homes? 09:44:50

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1 Peritz
2 A. Yes. 09:44:51
3 Q. How long have you been doing that? 09:44:53
4 A. Well, I was doing it probably from 09:44:54
5 the year 2000, but when I was working at 09:45:05
6 BOCES I did less of it, but I was still doing 09:45:12
7 it and then now it's my full-time job. 09:45:15
8 Q. Do you have your own business? 09:45:22
9 A. Yes. 09:45:24
10 Q. What is the name of your business? 09:45:25
11 A. Diane Peritz OT, PLLC. 09:45:27
12 Q. And was that opened around 2000? 09:45:33
13 A. Yes. 09:45:36
14 Q. And you indicated you were doing 09:45:41
15 that work of home care during the time you 09:45:43
16 were employed by Nassau BOCES? 09:45:46
17 A. Yes. 09:45:48
18 Q. How often, how many hours per week? 09:45:48
19 A. Well, we would get out of school at 09:45:54
20 like 3 o'clock, so maybe 3:30 to 6:30, 09:45:57
21 something like that. 09:46:05
22 Q. Every night? 09:46:05
23 A. Yeah, more or less. Maybe there 09:46:07
24 was one night I didn't, but at least four 09:46:11
25 nights. 09:46:14

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1 Peritz
2 Q. Prior to Nassau BOCES other than 09:46:18
3 your own business, were you employed by 09:46:21
4 anyone? 09:46:22
5 A. Yes. 09:46:23
6 Q. Who were you employed by? 09:46:24
7 A. I was employed by The New York City 09:46:25
8 Board of Education. 09:46:30
9 Q. The Board of Education? 09:46:30
10 A. Yes, it ultimately became The New 09:46:31
11 York City Department of Education. 09:46:46
12 Q. When did you work for the New York 09:46:46
13 City Board of Education? 09:46:52
14 A. Well, I had a Board of Education 09:46:52
15 scholarship, so they paid for my master's 09:46:53
16 program. 09:46:59
17 Q. Which master's program? 09:46:59
18 A. The occupational therapy master's 09:47:00
19 program and then by virtue of that -- 09:47:04
20 something you interview for and you win -- by 09:47:09
21 virtue of that you promise to work for them 09:47:14
22 for -- at that time it was one year for every 09:47:17
23 year they paid for, so they paid for two 09:47:22
24 years, so I needed to work for them for two 09:47:25
25 years. But, at the time I stayed for roughly 09:47:28

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1 Peritz
2 five years and then I left and I did just my 09:47:31
3 own private practice. And then in 2012 -- 09:47:37
4 Q. When was this that you worked for 09:47:47
5 them for five years, do you recall the dates? 09:47:49
6 A. If I got my master's in '98 I 09:47:50
7 worked for them for the five years subsequent 09:47:53
8 to that. I may be off by a year or 09:47:56
9 something, but that's basically the time 09:48:01
10 frame. 09:48:03
11 Q. So maybe until 2002 or -- 09:48:04
12 A. Yes. 09:48:08
13 Q. And then you said you left? 09:48:09
14 A. Yes. 09:48:12
15 Q. And were starting your own 09:48:13
16 practice? 09:48:17
17 A. Yes, and I did that until 2012 and 09:48:17
18 then I received a postcard at that point The 09:48:29
19 Department of Education was looking for OTs 09:48:34
20 and so I responded to that. 09:48:38
21 Q. What do you mean by "postcard"? 09:48:40
22 A. A postcard, like a postcard in the 09:48:42
23 mail. 09:48:46
24 Q. Just a job posting? 09:48:46
25 A. Yeah. Well, no, they must have got 09:48:47

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1 Peritz
2 a mailing in NBCOT and they sent out a 09:48:49
3 postcard. 09:48:53
4 Q. And then you responded to that 09:48:54
5 postcard? 09:48:55
6 A. Yes, and I returned that September. 09:48:56
7 Q. Of 2012? 09:49:03
8 A. Yes, and I worked there until I 09:49:05
9 started to work at BOCES. 09:49:10
10 Q. What was the position you held that 09:49:11
11 second time you were working for New York 09:49:14
12 City? 09:49:16
13 A. Senior occupational therapist. 09:49:16
14 Q. Was that full-time or part-time? 09:49:19
15 A. Full-time. 09:49:21
16 Q. Were you continuing to see clients 09:49:22
17 as part of your own -- 09:49:24
18 A. Yes, same -- 09:49:26
19 Q. Just let me finish the question. 09:49:27
20 A. Oh, I'm sorry. 09:49:28
21 Q. -- as part of your own business? 09:49:29
22 A. Yes. 09:49:30
23 Q. Was it again almost every night 09:49:33
24 after work? 09:49:35
25 A. Yes. 09:49:36

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1 Peritz
2 Q. What were your job duties as senior 09:49:38
3 occupational therapist? 09:49:42
4 A. You treat in a school depending on 09:49:44
5 which school location you're placed in eight 09:49:49
6 students a day and also as a senior 09:49:55
7 occupational therapist you often will take 09:50:02
8 student therapists and supervise them, so 09:50:06
9 during the course that I did that I had 09:50:10
10 probably about three student assistants. 09:50:14
11 Q. How did you work with the student 09:50:20
12 assistants? 09:50:25
13 A. Well, you see it's a requirement of 09:50:25
14 an occupational therapy program just like an 09:50:28
15 M.D. program that you need to do an 09:50:31
16 internship under someone else. So, you begin 09:50:34
17 that time just teaching and then as the 09:50:37
18 supervising therapist you after about six 09:50:40
19 weeks back off and you observe the student 09:50:44
20 therapist treating because ultimately after 09:50:49
21 the 12 week program they need to go get their 09:50:52
22 licensing exam. If, in fact, they pass then 09:50:58
23 they can go practice, so they need to be 09:51:00
24 certified by a licensed OT that, in fact, 09:51:02
25 they know what they're doing, not just 09:51:09

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1 Peritz
2 theoretically, but practically as well. 09:51:14
3 Q. And you were the supervisor that 09:51:16
4 would certify the student therapists? 09:51:18
5 A. Yes. 09:51:22
6 Q. And you said you would work with 09:51:22
7 them closely for about six weeks before you 09:51:24
8 started to phaseout? 09:51:26
9 A. Right. 09:51:27
10 Q. What sort of work would you do with 09:51:28
11 them, would you shadow them or direct them? 09:51:30
12 A. No, for the first six weeks you do 09:51:33
13 your treatment and they shadow you and then 09:51:35
14 for the second -- maybe week seven you give 09:51:38
15 them two kids that they're responsible for 09:51:41
16 planning treatments of and treating. And 09:51:44
17 then, you know, by the time you get to the 12 09:51:47
18 week they're supposed to be treating every 09:51:51
19 student on the caseload and you're supposed 09:51:54
20 to be the shadow. 09:51:56
21 Q. How long were you in the position 09:52:01
22 of senior occupational therapist at The New 09:52:03
23 York City Department of Education? 09:52:07
24 A. I became a senior occupational 09:52:07
25 therapist back in -- I don't know. Whatever 09:52:10

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1 Peritz
2 year it was back in like the 2000s or late 09:52:15
3 time after you work for the DOE for two years 09:52:19
4 I think. If you're in good standing and 09:52:22
5 you've shown that you know what you're doing 09:52:25
6 and so forth you become a senior OT, and then 09:52:26
7 when I returned I returned as a senior OT. 09:52:31
8 Q. So when you left in let's say 2002 09:52:33
9 at the end of your five years working there 09:52:38
10 subsequent to your scholarship you left as a 09:52:39
11 senior occupational therapist? 09:52:43
12 A. Right. 09:52:45
13 Q. And then when you returned in 09:52:45
14 around September 2012 you became a senior 09:52:47
15 occupational therapist? 09:52:48
16 A. Exactly. 09:52:48
17 Q. And from September 2012 how long 09:52:49
18 did you work? 09:52:51
19 A. I'm not exactly sure, but I worked 09:52:55
20 there until the day I started at BOCES and 09:53:01
21 initially what happened was I started at 09:53:07
22 BOCES part-time, so I continued my position 09:53:10
23 at the DOE part-time so that -- 09:53:15
24 Q. So when you started at BOCES you 09:53:19
25 went from full-time senior occupational 09:53:23

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1 Peritz
2 therapist to part-time? 09:53:25
3 A. At the DOE? 09:53:26
4 Q. At the DOE. 09:53:28
5 A. Yes, and then I stayed there as a 09:53:30
6 part-time therapist, so I was there two days 09:53:34
7 a week and I was here three days a week and 09:53:37
8 then when I became full-time here then I 09:53:40
9 stopped working there. 09:53:46
10 Q. By "here" you mean Nassau BOCES? 09:53:47
11 A. Yes. 09:53:50
12 Q. So to be clear, you were employed 09:53:56
13 by the DOE when you applied for your position 09:53:58
14 at Nassau BOCES and after you started at 09:54:01
15 Nassau BOCES you were still employed by the 09:54:04
16 DOE? 09:54:06
17 A. Yes. 09:54:07
18 Q. Did you ever make a request for 09:54:08
19 accommodations there at the DOE? 09:54:11
20 A. No. 09:54:13
21 Q. Did you ever have to go through the 09:54:14
22 grievance process for any reason? 09:54:16
23 A. No. 09:54:17
24 Q. Where did you live at the time you 09:54:19
25 were employed by the DOE? 09:54:20

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1 Peritz
2 A. Originally or at the end? 09:54:24
3 Q. Both. 09:54:38
4 A. I don't remember where I lived 09:54:44
5 originally, if I lived in the city or I had 09:54:46
6 already moved out here, but the second time I 09:54:49
7 lived at my current address. 09:54:54
8 Q. And as senior occupational 09:55:02
9 therapist, was that -- 09:55:04
10 A. Oh, and somewhere in between there, 09:55:08
11 but I don't know that it matters, I was also 09:55:10
12 a -- before I became an OT I worked for CUNY 09:55:15
13 as a lecturer in communication, arts, and 09:55:21
14 sciences. 09:55:26
15 Q. Okay, thank you. Were you tenured 09:55:27
16 as a senior occupational therapist at DOE? 09:55:32
17 A. They're actually in the process of 09:55:35
18 right now changing their process, but back 09:55:37
19 then they did not give tenure. By virtue of 09:55:39
20 the fact that you became a senior 09:55:44
21 occupational therapist you were more or 09:55:46
22 less -- you were a regular therapist, but 09:55:50
23 they did not -- it wasn't the same way like a 09:55:53
24 teacher program gives tenure. 09:55:56
25 Q. What was the reason you initially 09:56:02

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1 Peritz
2 had applied to a Nassau BOCES program while 09:56:04
3 you were still employed at the DOE? 09:56:08
4 A. Well, I didn't apply specifically 09:56:10
5 at the Nassau BOCES program. I was working 09:56:12
6 and my commute was significant into the city 09:56:18
7 and I was more and more tired of battling 09:56:21
8 traffic, so somebody suggested to me that I 09:56:26
9 get on the Nassau County list, it's a civil 09:56:29
10 service list and -- 09:56:33
11 Q. We'll get to that, thank you. I'll 09:56:34
12 ask you some more questions about that in 09:56:37
13 just a minute. 09:56:40
14 A. Okay. Well, I'm kind of answering 09:56:40
15 your first question. By virtue of being on 09:56:42
16 that list any opening that occurs your 09:56:45
17 resume's just sent to it. 09:56:48
18 Q. Understood. Before The New York 09:56:51
19 City Department of Education and between the 09:56:59
20 time from 2002 let's say when you left the 09:57:01
21 first time and 2012 when you started again 09:57:05
22 there, what were you doing in that interim, 09:57:07
23 that was exclusively you were working for 09:57:11
24 yourself? 09:57:13
25 A. Yes. 09:57:13

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1 Peritz
2 Q. And that's always in a home care 09:57:15
3 situation? 09:57:18
4 A. Yes. 09:57:20
5 Q. Have you ever brought a lawsuit 09:57:22
6 against anyone else beside this case? 09:57:28
7 A. Yes. 09:57:30
8 Q. Who did you bring it against? 09:57:32
9 A. Many, many years ago I was involved 09:57:35
10 in a car accident and recently I am involved 09:57:37
11 in another lawsuit, sort of an employment 09:57:48
12 thing. 09:57:52
13 Q. Who is that against? 09:57:53
14 A. The DOE. 09:57:54
15 Q. When did you bring that suit? 09:57:57
16 A. I'm not sure. 09:57:59
17 Q. Is it still pending? 09:58:01
18 A. Yeah. 09:58:02
19 Q. But, you said it was an employment 09:58:05
20 matter? 09:58:07
21 A. Sort of. 09:58:08
22 Q. What do you mean, "sort of"? 09:58:10
23 A. I don't know how to describe it, 09:58:12
24 it's a weird -- should I describe it? 09:58:15
25 Q. Please. 09:58:18

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1 Peritz
2 MS. KALLUS: Yes. 09:58:21
3 A. I treated a very impaired child, 09:58:22
4 not a very -- I treated a child who was a 09:58:24
5 foster child who had emotional disturbance 09:58:28
6 and learning disabilities and was a ward of 09:58:33
7 the state and needed a pair of glasses. And 09:58:39
8 I tried very hard to get the glasses 09:58:47
9 purchased by the school and by the agency, 09:58:54
10 but because Medicaid purchases the glasses 09:58:58
11 they're only entitled to one pair of glasses 09:59:04
12 I want to say every five years. 09:59:08
13 And so his glasses had broken and 09:59:11
14 we were working on a computer program and he 09:59:15
15 couldn't see it at all and so I gained 09:59:19
16 permission from his foster agency -- so, I 09:59:24
17 was in the process of transferring from one 09:59:28
18 school to another which is very common at the 09:59:30
19 DOE, you choose where you work as opposed to 09:59:32
20 BOCES. So, I had transferred to a different 09:59:36
21 school and I was no longer going to be his 09:59:42
22 therapist and I knew this kid really needed 09:59:46
23 glasses, so I asked the foster care agency 09:59:49
24 for permission to purchase the glasses for 09:59:53
25 him. And his foster mom took him to get 09:59:55

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1 Peritz
2 glasses and phoned me and I gave a credit 10:00:00
3 card over the phone, that particular 10:00:04
4 principal argued that that was inappropriate. 10:00:05
5 Q. The principal of the school where 10:00:12
6 this -- 10:00:14
7 A. Kid went. 10:00:16
8 Q. -- where this young man was 10:00:17
9 attended? 10:00:19
10 A. Yes. 10:00:20
11 Q. What school was that? 10:00:20
12 A. The John F. Kennedy School and so I 10:00:21
13 brought a lawsuit. So, she actually tried to 10:00:26
14 move against me and had me briefly suspended 10:00:33
15 and I was found not guilty of anything and 10:00:38
16 totally cleared and so -- 10:00:45
17 Q. When you say you were not found 10:00:47
18 guilty of anything, did you have like a 10:00:50
19 disciplinary hearing or -- 10:00:51
20 A. It wasn't a hearing. Well, I met 10:00:53
21 with -- they give it to an investigating 10:00:57
22 agency who does investigation and I was found 10:01:00
23 that what I did -- I mean the quote was a 10:01:04
24 good deed and the principal didn't like me, 10:01:07
25 so I brought a suit against her specifically, 10:01:11

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1 Peritz
2 but I continued -- can I finish? 10:01:20
3 Q. Sure, please. 10:01:21
4 A. But, I continued working for the 10:01:23
5 other schools and had an exemplary record. 10:01:25
6 Q. But, you just didn't choose to work 10:01:29
7 at JFK School anymore after that? 10:01:31
8 A. Right, because I didn't much like 10:01:34
9 her. 10:01:36
10 Q. When you said earlier that the 10:01:37
11 determination of whatever the administrative 10:01:42
12 hearing or the investigation was that you had 10:01:45
13 done a good deed, is part of the quote also 10:01:48
14 that the principal didn't like you or that's 10:01:51
15 what you think? 10:01:53
16 A. No, they said that actually. 10:01:53
17 Q. And do you believe that to be true? 10:01:55
18 A. Yes. 10:01:57
19 Q. Do you have any reason to 10:01:57
20 understand why she wouldn't have liked you? 10:02:00
21 A. The teachers would say that she 10:02:03
22 only liked the really young people. I don't 10:02:06
23 know. 10:02:11
24 Q. And other than this suit that's 10:02:11
25 pending and your earlier car accident, have 10:02:13

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1 Peritz
2 you brought suit against anyone else? 10:02:16
3 A. No. 10:02:19
4 Q. And have you ever been sued? 10:02:19
5 A. No. 10:02:21
6 Q. Have you ever been convicted of a 10:02:22
7 crime? 10:02:25
8 A. No. 10:02:25
9 Q. Is there anything else you feel I 10:02:27
10 should know about any past legal matters? 10:02:28
11 A. No. 10:02:31
12 Q. So you indicated earlier that 10:02:36
13 you're familiar with the process of hiring 10:02:41
14 off the Nassau County Civil Service 10:02:43
15 Commission list; is that correct? 10:02:46
16 A. Yeah. 10:02:47
17 Q. And what is your understanding of 10:02:48
18 that process? 10:02:49
19 A. That you fill out a whole lot of 10:02:50
20 documents about your education and your 10:02:57
21 coursework and your after school coursework 10:03:01
22 and your knowledge and so forth and you get a 10:03:05
23 ranking based on all of that. My ranking was 10:03:08
24 a hundred actually and so out of a hundred 10:03:12
25 points I got a hundred. And then when jobs 10:03:16

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1 Peritz
2 open in Nassau County through positions that 10:03:24
3 are affiliated with the Civil Service 10:03:31
4 Commission without your in any way advocating 10:03:34
5 to it your resume and your ranking goes to 10:03:40
6 that position and then they phone you and 10:03:45
7 they interview you and if they like you they 10:03:49
8 offer you a job. You must respond to every 10:03:53
9 person who asks you because if -- you don't 10:03:59
10 have to take a job, but you must respond 10:04:03
11 because if you don't respond I'm not sure if 10:04:06
12 it's two or three times then your name is 10:04:09
13 removed from the list. 10:04:12
14 Q. And how did you get your name 10:04:13
15 placed on the list to begin with? 10:04:16
16 A. The same way I just described, you 10:04:18
17 fill out this very long form. 10:04:21
18 Q. Do you have to be a local resident? 10:04:23
19 A. Yeah, I think you have to reside in 10:04:26
20 Nassau County, although I'm not a hundred 10:04:28
21 percent sure about that because I know people 10:04:31
22 who have been on it who resided in Suffolk. 10:04:33
23 Q. When did you complete your 10:04:37
24 application? 10:04:38
25 A. I'm really not sure. I currently 10:04:39

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1 Peritz
2 have one, I mean because once you do it you 10:04:43
3 just keep it going. 10:04:47
4 Q. But, you don't recall when you 10:04:48
5 first applied? 10:04:50
6 A. No. 10:04:50
7 Q. Have you heard from other employers 10:04:53
8 other than Nassau BOCES? 10:04:55
9 A. Oh, yes. 10:04:57
10 Q. And have you taken any jobs other 10:04:57
11 than Nassau BOCES? 10:04:59
12 A. No, Nassau BOCES was part of the 10:05:01
13 main reason that I put myself on the list 10:05:05
14 because it was my understanding that it was a 10:05:08
15 really good position in terms of -- since I 10:05:10
16 have previous retirement benefits with the 10:05:16
17 DOE I wanted to transfer it over. 10:05:18
18 Q. What retirement benefits did you 10:05:22
19 have with the DOE? 10:05:24
20 A. Whatever their plan is. I'm not 10:05:26
21 exactly sure what it's called, but you get on 10:05:28
22 this New York State retirement thing. 10:05:31
23 Q. And that continues for life or you 10:05:35
24 just have what you accrued while you were 10:05:38
25 employed? 10:05:40

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1 Peritz
2 A. Right, exactly, but you can 10:05:40
3 transfer it. So, if you happen to work for a 10:05:43
4 New York State agency which Nassau BOCES is 10:05:45
5 one of them, then you're able to transfer it 10:05:50
6 here and continue to accrue. 10:05:54
7 Q. So are you saying that you applied 10:05:56
8 to the Nassau County Civil Service Commission 10:05:57
9 list primarily because of Nassau BOCES 10:06:01
10 accessing the list? 10:06:03
11 A. Well, it was one of the reasons. 10:06:04
12 But, no, I'm not saying that because at the 10:06:06
13 time I thought well, if I found a school 10:06:08
14 district that it -- school districts I do not 10:06:11
15 believe are part of that retirement, but if I 10:06:14
16 found a school district that I really liked I 10:06:17
17 might decide to go there and again not have 10:06:20
18 to commute quite so far. 10:06:24
19 Q. And are you on any other lists in 10:06:27
20 any other counties? 10:06:29
21 A. No. 10:06:31
22 Q. Have you interviewed for any other 10:06:32
23 positions as a result of your being on the 10:06:34
24 list? 10:06:37
25 A. Yeah. 10:06:37

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1 Peritz
2 Q. How many would you say? 10:06:38
3 A. I don't know, five. 10:06:39
4 Q. Five interviews? 10:06:41
5 A. Yes, and I've also -- as long as 10:06:43
6 you respond you don't have to interview, so 10:06:49
7 I've also responded negatively to some 10:06:52
8 positions. 10:06:58
9 Q. Meaning you've responded that you 10:06:58
10 were not interested? 10:07:00
11 A. Right. 10:07:02
12 Q. When you were hired by Nassau 10:07:03
13 BOCES, you were hired as part-time you said? 10:07:10
14 A. Yes. 10:07:12
15 Q. At anytime did you become a 10:07:14
16 full-time employee? 10:07:17
17 A. Yes. 10:07:18
18 Q. When was that? 10:07:18
19 A. March. No, April right after 10:07:19
20 Easter break in -- oh, my goodness, I guess 10:07:25
21 like two years ago. 10:07:34
22 Q. 2014 or 2015? 10:07:36
23 A. I'm not sure. 10:07:40
24 MS. RUDNICKI: I'm going to ask 10:07:43
25 that this document be marked as 10:07:43

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1 Peritz
2 Respondents' A. 10:07:46
3 (Respondents' Exhibit A, seven page
4 photocopy of notice of claim dated
5 1/31/16, marked for identification, as
6 of this date.) 10:08:49
7 Q. Miss Peritz, this is your notice of 10:08:49
8 claim dated January 31, 2016, I'm just going 10:08:51
9 to ask you to take a look at it, it was just 10:08:55
10 marked as Respondents' A. If you need a few 10:08:57
11 minutes to look it over just let me know 10:09:01
12 (handing). 10:09:03
13 A. I recognize it. So, what do you 10:09:04
14 want me to do with it? 10:09:07
15 Q. We'll go through it. 10:09:08
16 A. Okay. 10:09:10
17 MS. KALLUS: Just for the record, 10:09:10
18 the copy that's been marked as an 10:09:11
19 exhibit has some notes in it. 10:09:14
20 MS. RUDNICKI: This one does? 10:09:16
21 MS. KALLUS: Yes. 10:09:17
22 MS. RUDNICKI: Sorry, thank you. 10:09:19
23 Q. So, Miss Peritz, do you recognize 10:09:34
24 the notice of claim you filed against BOCES 10:09:35
25 (handing)? 10:09:38

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1 Peritz
2 A. Yes. 10:09:38
3 Q. And that's your signature on the 10:09:38
4 last page of the document? 10:09:40
5 A. Yes. 10:09:42
6 Q. Did you review this document before 10:09:43
7 you signed it? 10:09:45
8 A. Yes. 10:09:45
9 Q. And is the information on this 10:09:46
10 document true and accurate, to your 10:09:48
11 knowledge? 10:09:50
12 A. Yes. 10:09:50
13 Q. How were you contacted initially 10:09:51
14 regarding the Nassau BOCES open position that 10:10:01
15 you ultimately filled? 10:10:03
16 A. I got a call from Janet Weisel on 10:10:06
17 the telephone. 10:10:11
18 Q. When did you get that call? 10:10:12
19 A. I don't remember the exact date, 10:10:15
20 but I got it before she actually had the 10:10:18
21 list. Somehow she had heard that my name was 10:10:21
22 on the list and she was trying to jump the 10:10:24
23 gun. It might have been before Christmas 10:10:28
24 break in -- but I'm not sure what year. So, 10:10:31
25 if it was 2015 that I worked here, maybe it 10:10:34

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1 Peritz
2 was 2014. 10:10:37
3 Q. So what is your basis for 10:10:39
4 understanding that Miss Weisel contacted you 10:10:41
5 not through the list, but off the list? 10:10:47
6 A. Because technically she knew I was 10:10:50
7 on the list and she was nervous about how 10:10:53
8 long it was going to take her to get through 10:10:56
9 the process and they only have a certain 10:10:59
10 amount of time or something. 10:11:01
11 Q. But, what is your basis for 10:11:02
12 understand that, did she express that to you? 10:11:05
13 A. Oh, she told it to me, yes. 10:11:07
14 Q. And she told you that when she 10:11:09
15 called you on your cell phone on or around 10:11:11
16 let's say December of 2014? 10:11:13
17 A. Yes. 10:11:15
18 Q. That first conversation that you 10:11:16
19 had with her she -- 10:11:17
20 A. December or January, something like 10:11:19
21 that, and then it would be 2015 I guess. 10:11:20
22 Q. Fine. But, when she spoke to 10:11:24
23 you -- 10:11:26
24 A. She said she didn't yet have the 10:11:26
25 list, therefore, she wasn't going through it, 10:11:29

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1 Peritz
2 but she knew I was on it. I don't really 10:11:31
3 know how because I didn't ask her, I was just 10:11:35
4 excited to get a call. 10:11:38
5 Q. What is Miss Weisel's position? 10:11:39
6 A. She's the supervisor of 10:11:41
7 occupational therapists at BOCES. 10:11:44
8 Q. And what happened subsequent to 10:11:47
9 that call to your cell phone? 10:11:51
10 A. We arranged an interview. 10:11:53
11 Q. When was the interview held? 10:11:56
12 A. Shortly thereafter, a week later in 10:11:58
13 the afternoon. 10:12:01
14 Q. Where was it held? 10:12:03
15 A. In her office on Jerusalem Road I 10:12:04
16 think. 10:12:12
17 Q. Avenue? 10:12:12
18 A. I know there's a Jerusalem Road and 10:12:13
19 an avenue, so I get them confused. I think 10:12:15
20 hers is on Jerusalem Road, but I could be 10:12:18
21 wrong. I don't think I'm wrong. 10:12:21
22 Q. And you said this was about a week 10:12:24
23 after the cell phone call? 10:12:27
24 A. Yes. 10:12:28
25 Q. So was it after Christmas at this 10:12:28

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1 Peritz
2 point? 10:12:32
3 A. You know, I'm not sure really. 10:12:32
4 Q. What did you discuss at the 10:12:35
5 interview? 10:12:37
6 A. Well, she asked me lots of 10:12:37
7 questions about being an OT and, you know, 10:12:40
8 just employment questions like, you know, 10:12:44
9 what do I like about my job, what population 10:12:47
10 I worked with, where I was working currently, 10:12:50
11 what I was comfortable with, et cetera. And 10:12:53
12 then I left and I did not hear back for long 10:12:58
13 enough that I just assumed I didn't really 10:13:05
14 get the position. 10:13:08
15 Q. Was anyone else present at the 10:13:10
16 meeting? 10:13:13
17 A. Well, she shares an office with the 10:13:13
18 supervisor of physical therapists, I can't 10:13:17
19 remember her name, and so she was in the 10:13:20
20 office, but she was working at her desk, she 10:13:23
21 was not part of our interview. 10:13:25
22 Q. But, she was present in the same 10:13:27
23 room when you were having the interview with 10:13:30
24 Miss Weisel? 10:13:34
25 A. Yes. 10:13:34

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1 Peritz
2 Q. And were you familiar at the time 10:13:34
3 with the structure of Nassau BOCES? 10:13:36
4 A. What do you mean by that? 10:13:40
5 Q. How many schools there were in the 10:13:41
6 program. 10:13:43
7 A. No, she reviewed it actually. 10:13:43
8 Q. She explained it to you at that 10:13:46
9 interview? 10:13:48
10 A. Yes. 10:13:48
11 Q. So prior to that you were not 10:13:49
12 familiar with it? 10:13:51
13 A. Not really, no. 10:13:51
14 Q. And how long went by before you 10:13:53
15 heard from her again? 10:13:57
16 A. I don't know, a long time. 10:13:59
17 Q. A month, six months? 10:14:01
18 A. You know, more than a month, so I 10:14:04
19 just assumed someone else got the job. 10:14:05
20 Q. And when did you hear from her 10:14:08
21 again? 10:14:10
22 A. A month or six weeks later, or 10:14:12
23 something like that, and she called to offer 10:14:14
24 me the job. 10:14:16
25 Q. And she called your cell phone 10:14:19

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1 Peritz
2 again? 10:14:22
3 A. Yes. 10:14:22
4 Q. What did she say other than offer 10:14:24
5 you the job? 10:14:27
6 A. She said it was a part-time 10:14:28
7 position, it was three days a week, I would 10:14:30
8 be in two schools, and that I needed to 10:14:33
9 decide rather quickly because of the time 10:14:39
10 constraints of the Civil Service Commission. 10:14:44
11 And that was a very stressful situation for 10:14:47
12 me because technically at the DOE, probably 10:14:51
13 the same thing at BOCES, you need to give 30 10:14:57
14 days notice and I think it was like 29 days 10:15:01
15 before I needed to start, so I was very 10:15:04
16 stressed about that. 10:15:09
17 The other thing that had happened 10:15:09
18 that particular day is a student had started 10:15:11
19 with me who was going to be with me for three 10:15:16
20 months and so that also was very stressful 10:15:20
21 because I did not -- but, she wasn't with 10:15:23
22 me -- she was a level two student, but she 10:15:28
23 was from Columbia and she was not with me 10:15:31
24 five days. 10:15:35
25 Q. And she was with you through the 10:15:36

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<p>1 Peritz</p> <p>2 DOE or the through the private practice? 10:15:38</p> <p>3 A. No, through the DOE. So, I asked 10:15:40</p> <p>4 lots of questions to Miss Weisel the most 10:15:44</p> <p>5 important of which was how permanent was this 10:15:50</p> <p>6 position because in order to take it I would 10:15:55</p> <p>7 have to leave my current position and my 10:15:59</p> <p>8 current position was, in fact, permanent. I 10:16:01</p> <p>9 loved it, they loved me, the only thing I 10:16:04</p> <p>10 didn't love was it was a two hour commute. 10:16:08</p> <p>11 Q. And when you say your position at 10:16:11</p> <p>12 the DOE was permanent, can you explain that 10:16:13</p> <p>13 since you already explained that they don't 10:16:16</p> <p>14 just a tenure system there? 10:16:20</p> <p>15 A. When you've been in good standing 10:16:22</p> <p>16 for, you know, two years you basically have 10:16:24</p> <p>17 that position until you retire or die or as 10:16:29</p> <p>18 permanent as anywhere else. I mean, you 10:16:34</p> <p>19 know, if you do something outlandish of 10:16:38</p> <p>20 course you're going to lose your job, but 10:16:40</p> <p>21 there's no reason to believe that you would. 10:16:43</p> <p>22 Q. So did you have a contract with the 10:16:44</p> <p>23 DOE? 10:16:47</p> <p>24 A. No, you don't get contracts, but -- 10:16:48</p> <p>25 wait. I don't get contracts, however, OTs in 10:16:51</p>	<p>1 Peritz</p> <p>2 think that 29 days before -- like, you know, 10:18:32</p> <p>3 if I sent notice 29 days before as opposed to 10:18:37</p> <p>4 30 days before as she's a supervisor she 10:18:42</p> <p>5 wouldn't hold that against me, so she didn't 10:18:45</p> <p>6 really think that one day more or less was 10:18:47</p> <p>7 going to make a difference. 10:18:51</p> <p>8 Q. So when was your start date? 10:18:52</p> <p>9 A. I'm not sure also. 10:19:01</p> <p>10 Q. Was it the middle of the term? 10:19:03</p> <p>11 A. Yes. 10:19:05</p> <p>12 Q. How does BOCES work, does it work 10:19:06</p> <p>13 with quarters, semesters, or terms, how is 10:19:09</p> <p>14 the calendar divided? 10:19:12</p> <p>15 A. I guess it's a year. It's a year 10:19:13</p> <p>16 for the schools I was in. There are high 10:19:16</p> <p>17 schools that would work by, you know, 10:19:18</p> <p>18 semester, but I wasn't placed in any of them. 10:19:21</p> <p>19 Q. So the schools you were in didn't 10:19:24</p> <p>20 have quarters or any divisions? 10:19:27</p> <p>21 A. No. 10:19:28</p> <p>22 Q. So if you don't recall your start 10:19:28</p> <p>23 date, do you recall roughly when you began? 10:19:30</p> <p>24 A. Sometime in February or March of 10:19:32</p> <p>25 2015. 10:19:40</p>
Page 39	Page 41
<p>1 Peritz</p> <p>2 general there is a union contract. 10:16:54</p> <p>3 Q. Sure. But, your position was 10:16:59</p> <p>4 without a contract, an employment contract? 10:17:11</p> <p>5 A. No. No individual OT gets a 10:17:15</p> <p>6 contract, but there is a union contract for 10:17:20</p> <p>7 occupational therapists. 10:17:23</p> <p>8 Q. But, does the union contract say 10:17:24</p> <p>9 anything about term of employment? 10:17:26</p> <p>10 A. I honestly don't know. 10:17:28</p> <p>11 Q. So what do you recall Miss Weisel 10:17:40</p> <p>12 explaining to you about the nature of the 10:17:43</p> <p>13 position? 10:17:45</p> <p>14 A. She said it was, in fact, a 10:17:45</p> <p>15 permanent position. I asked about becoming 10:17:47</p> <p>16 full-time, that I was interested in a 10:17:53</p> <p>17 full-time position, and she said I couldn't 10:17:54</p> <p>18 become full-time until a year had past. But, 10:17:56</p> <p>19 the part-time position would be a tenure 10:18:04</p> <p>20 track position and that almost every single 10:18:09</p> <p>21 therapist gets tenure and so she had every 10:18:13</p> <p>22 reason to believe it was going to be a 10:18:17</p> <p>23 permanent position. 10:18:19</p> <p>24 She said that she couldn't -- you 10:18:22</p> <p>25 know, if I left the DOE at 29 days she didn't 10:18:27</p>	<p>1 Peritz</p> <p>2 Q. So in your conversation with 10:19:43</p> <p>3 Miss Weisel, did she explain to you -- you 10:19:45</p> <p>4 had mentioned earlier you were on a tenure 10:19:48</p> <p>5 track, did she explain to you you were a 10:19:50</p> <p>6 probationary employee at that point? 10:19:55</p> <p>7 A. Yes. 10:19:55</p> <p>8 Q. And what was your understanding of 10:19:56</p> <p>9 what it meant to be hired as a probationary 10:19:58</p> <p>10 employee? 10:20:01</p> <p>11 A. As she said, it was very different 10:20:01</p> <p>12 from the teachers position, that I would be 10:20:05</p> <p>13 observed three times and that they were more 10:20:06</p> <p>14 or less a formality and that based on my 10:20:09</p> <p>15 years of experience and the fact that I was 10:20:12</p> <p>16 working for the DOE for so long and for 10:20:18</p> <p>17 St. Mary's it -- you know, she had no doubt 10:20:21</p> <p>18 that I would get tenure. 10:20:24</p> <p>19 Q. Did you understand as a 10:20:28</p> <p>20 probationary employee that you could be fired 10:20:32</p> <p>21 at anytime during that probationary period? 10:20:34</p> <p>22 A. I know what the word probationary 10:20:36</p> <p>23 means. 10:20:38</p> <p>24 Q. Is that a yes or a no? 10:20:38</p> <p>25 A. But, no, it was not discussed. 10:20:39</p>

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1 Peritz
2 Q. I didn't ask if it was discussed, I 10:20:39
3 asked if you understood? 10:20:39
4 A. Yeah, I know what the word means. 10:20:40
5 Q. So you understand that you could be 10:20:42
6 fired at anytime during a probationary 10:20:45
7 period? 10:20:48
8 A. Sure, it's also my understanding 10:20:48
9 that you can be fired anytime based on not 10:20:50
10 doing the right thing. 10:20:53
11 Q. Miss Peritz, I'd ask you to look at 10:20:57
12 paragraph seven of your notice of claim. 10:21:01
13 Before that I'm going to ask you a couple 10:21:09
14 more questions. So when you were having a 10:21:12
15 conversation with Miss Weisel regarding 10:21:14
16 leaving your position at DOE and starting, 10:21:17
17 what did you ultimately decide to do? 10:21:21
18 A. I decided to send in a letter of 10:21:25
19 resignation immediately so that I would have 10:21:29
20 as much -- you know, close to the 30 days as 10:21:32
21 possible and I decided to take the job at 10:21:38
22 BOCES. 10:21:43
23 And then primarily because I have a 10:21:49
24 student and primarily because I felt really 10:21:54
25 badly about leaving my DOE position I asked 10:22:00

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1 Peritz
2 them if I could work two days a week since it 10:22:05
3 was a three day position at BOCES and then I 10:22:08
4 met with the principals of my current schools 10:22:12
5 and told them what they were going -- what 10:22:16
6 was going on and they were amazing. 10:22:19
7 Q. So as you testified earlier, you 10:22:21
8 were still working for the DOE when you 10:22:23
9 started working for Nassau BOCES? 10:22:26
10 A. Yes. 10:22:27
11 Q. Okay, so now I'll ask you to look 10:22:28
12 at paragraph seven, please. 10:22:30
13 A. Yes. 10:22:31
14 Q. So in paragraph seven you claim 10:22:31
15 Miss Weisel asked you to become a full-time 10:22:33
16 employee because she told you you were doing 10:22:36
17 a wonderful job; is that accurate? 10:22:37
18 A. Yes. 10:22:39
19 Q. When did she ask you to become a 10:22:39
20 full-time position, I believe you had 10:22:43
21 testified earlier it might have been -- 10:22:44
22 A. April it says, so, yeah. 10:22:45
23 Q. Do you recall that it was April; is 10:22:48
24 that accurate? 10:22:50
25 A. I must have done it from records 10:22:50

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1 Peritz
2 for the dates for years, so, yeah. 10:22:54
3 Q. And previously you had testified 10:22:57
4 that Miss Weisel said that you were going to 10:23:00
5 become full-time after a year? 10:23:03
6 A. Yes. 10:23:04
7 Q. And what was the basis for that 10:23:04
8 year long? 10:23:07
9 A. So she said you could not become 10:23:08
10 full-time until a year, it was the Civil 10:23:11
11 Service Law. So, in order to make me 10:23:15
12 full-time before the year what happened was 10:23:16
13 one of the other therapists was having 10:23:21
14 surgery so there was a need and because I was 10:23:24
15 doing such a great job she went to the civil 10:23:28
16 service -- she told me all this, she went to 10:23:34
17 the Civil Service Commission and asked 10:23:37
18 special permission to make me full-time. 10:23:40
19 Q. When did she tell you she had gone 10:23:43
20 to the Civil Service Commission? 10:23:46
21 A. Just before it happened. 10:23:48
22 Q. And you said the reason was because 10:23:51
23 a fellow occupational therapist, a permanent, 10:23:55
24 full-time occupational therapist had been 10:23:59
25 injured? 10:24:01

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1 Peritz
2 A. No, he wasn't injured, he was 10:24:01
3 having knee surgery. 10:24:03
4 Q. And so that opened a spot for you? 10:24:07
5 A. Yes, and my concern was that since 10:24:09
6 the opening was because someone was having 10:24:15
7 surgery he would come back and I did not want 10:24:17
8 to burn my bridges at DOE and then discover 10:24:20
9 that this was not permanent at BOCES. 10:24:25
10 Q. And did you express that to 10:24:28
11 Miss Weisel? 10:24:30
12 A. I sure did. 10:24:30
13 Q. When did you express that to her? 10:24:31
14 A. During the conversation where she 10:24:32
15 offered me the full-time position. 10:24:34
16 Q. And what did she say in response to 10:24:36
17 that? 10:24:38
18 A. She said I didn't need to worry, 10:24:39
19 that they had gotten the special permission 10:24:40
20 from the civil service and I would now be 10:24:43
21 full-time. 10:24:46
22 Q. Even if the employee who was having 10:24:46
23 surgery returned? 10:24:49
24 A. Yeah, he did return ultimately and 10:24:50
25 I remained full-time. 10:24:53

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1 Peritz

2 Q. So when you started at Nassau BOCES 10:25:03

3 in March, where were you assigned? 10:25:06

4 A. I was assigned at CCA and the 10:25:08

5 Jerusalem Avenue school. 10:25:14

6 Q. And can you describe the student 10:25:14

7 population at Jerusalem Avenue? 10:25:17

8 A. Jerusalem Avenue school is 10:25:18

9 elementary school age students who have 10:25:20

10 learning disabilities, emotional 10:25:27

11 disabilities, I guess probably -- no, I think 10:25:33

12 that's it, and cannot function in a regular 10:25:38

13 district program. 10:25:45

14 Q. And can you describe the student 10:25:47

15 population briefly at CCA? 10:25:48

16 A. CCA is high school age students 10:25:51

17 with also learning disabilities or emotional 10:25:56

18 disabilities, but usually a step more than 10:26:02

19 that so they have some sort of a major 10:26:04

20 diagnosis that makes it impossible for them 10:26:08

21 to function in the general population. 10:26:10

22 Q. And did you describe the ages of 10:26:13

23 the CCA students? 10:26:16

24 A. I said high school age. 10:26:17

25 Q. Thank you. Were you ever observed 10:26:19

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1 Peritz

2 while you were at Jerusalem Avenue? 10:26:22

3 A. No, I was not, not by -- I was 10:26:24

4 observed all the time by colleagues because 10:26:27

5 everybody treats in one room, but I was never 10:26:30

6 observed by Miss Weisel. 10:26:33

7 Q. And were you ever observed while 10:26:40

8 you were at CCA? 10:26:42

9 A. Yes, I was. 10:26:43

10 Q. When were you observed? 10:26:44

11 A. Does it say it? It says May 2015. 10:26:46

12 Q. Do you recall that observation in 10:26:53

13 May 2000 -- 10:26:55

14 A. Yes. 10:26:56

15 Q. Did you say '13? 10:26:56

16 A. Fifteen, I wasn't working for BOCES 10:26:58

17 in 2013. 10:27:01

18 Q. And who observed you at CCA in May 10:27:03

19 of 2015? 10:27:07

20 A. Miss Weisel. 10:27:07

21 Q. Where did she observe you? 10:27:10

22 A. In the therapy room that was my 10:27:13

23 office. 10:27:15

24 Q. And was it similar to CCA in that 10:27:19

25 all therapists treat in one room? 10:27:25

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1 Peritz

2 A. CCA is different. I shared an 10:27:30

3 office with one therapist and we treated in 10:27:34

4 that room, but there was another room that 10:27:37

5 another OT treated in and then there was 10:27:44

6 another room that the physical therapist 10:27:48

7 treated in. 10:27:51

8 Q. So when you were observed in May 10:27:52

9 2015 by Miss Weisel, was anyone else present? 10:27:56

10 A. No, just the student and me. 10:27:58

11 Q. What were you doing with the 10:28:02

12 student at the time you were observed? 10:28:05

13 A. I was working on whatever his goals 10:28:07

14 were, dressing, fine motor buttoning. 10:28:09

15 Dressing meaning buttoning and fine motor. 10:28:18

16 Q. Did you speak to Miss Weisel during 10:28:23

17 that observation? 10:28:25

18 A. During the observation? 10:28:27

19 Q. Yes. 10:28:28

20 A. Probably briefly. 10:28:29

21 Q. Did you speak with her after the 10:28:30

22 observation? 10:28:32

23 A. Yes. 10:28:33

24 Q. And what did you discuss? 10:28:33

25 A. We discussed the observation. 10:28:35

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1 Peritz

2 During the observation, because again this is 10:28:38

3 a high school aged individual who is aware 10:28:42

4 and knowledgeable, I introduced her to him. 10:28:49

5 I explained that she was there to observe me, 10:28:55

6 not him, and so I did my treatment session. 10:28:58

7 And then at one point in the 10:29:03

8 treatment session he opened the window and -- 10:29:06

9 I mean they don't open that high and we were 10:29:12

10 on the first floor -- and he slipped the 10:29:15

11 shirt that he was supposed to be buttoning 10:29:17

12 out the window onto the bush and so 10:29:20

13 Miss Weisel and I discussed -- and then he 10:29:29

14 was immediately very I'm sorry, I'm sorry, 10:29:33

15 can I go get it. And so I said well, let's 10:29:37

16 see if it's possible for us to go together to 10:29:41

17 get it because obviously he couldn't leave 10:29:44

18 and her initial reaction was that that was 10:29:47

19 not acceptable and she didn't think I could 10:29:49

20 legally take him outside, but she directed me 10:29:53

21 to go into the office and ask permission and 10:29:56

22 what I did was I -- because I knew, in fact, 10:29:59

23 it was acceptable. 10:30:03

24 Q. And how did you know it was 10:30:04

25 acceptable? 10:30:05

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1 Peritz
2 A. Because therapists take kids out 10:30:05
3 all the time at CCA. There are different 10:30:08
4 rules in each school, so what you might do in 10:30:11
5 one school you wouldn't do in another which 10:30:14
6 is why she wasn't really aware. There were 10:30:16
7 other things at CCA that she wasn't aware of. 10:30:19
8 And so I went into the office with him and 10:30:22
9 she stayed in my office and I asked 10:30:25
10 permission for us to go out and get the shirt 10:30:29
11 and we walked around. 10:30:33
12 I explained to her later that one 10:30:35
13 of the reasons that I wanted him to do it 10:30:38
14 since he expressed interest in doing it is I 10:30:41
15 wanted there to be an immediate consequence 10:30:44
16 and I wanted him to realize that, you know, 10:30:47
17 what he did was wrong, but there is a way to 10:30:52
18 rectify it by bringing the shirt back in and 10:30:56
19 buttoning it which is what he did. 10:30:59
20 Q. And this you explained to 10:30:59
21 Miss Weisel, your rational?
22 A. Yes, later. 10:31:03
23 Q. You told this to Miss Weisel 10:31:03
24 immediately after the observation? 10:31:16
25 A. Yes, once the student had gone back 10:31:17

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1 Peritz
2 to his room. 10:31:19
3 Q. And how did she respond to that 10:31:20
4 rational? 10:31:23
5 A. She thought it made sense, she just 10:31:23
6 was surprised that they allowed us to go out. 10:31:26
7 Q. And what else did you discuss in 10:31:29
8 terms of the observation afterward? 10:31:30
9 A. She said that she was pleased to 10:31:33
10 see how I dealt with the student because I 10:31:38
11 was kind of freaked out that the student had 10:31:42
12 dumped the sweater, the shirt, and that, you 10:31:45
13 know, he had been sort of cheeky during the 10:31:49
14 observation and she said "no, I'm looking -- 10:31:52
15 that's why these kids are here, they're here 10:31:54
16 because they're not -- they can't function in 10:31:57
17 regular school, I'm pleased to see the way 10:32:02
18 you dealt with it." 10:32:04
19 Q. How long did you work at Jerusalem 10:32:06
20 Avenue at CCA? 10:32:11
21 A. Until June and then at CCA I worked 10:32:12
22 all summer and I worked the next fall. 10:32:15
23 Q. What was your caseload at Jerusalem 10:32:18
24 Avenue? 10:32:23
25 A. Two days. Well, when I became 10:32:23

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1 Peritz
2 full-time it was two days. 10:32:26
3 Q. I meant how many students? 10:32:27
4 A. Also we treat roughly eight a day, 10:32:29
5 so most kids get two sessions, so eight 10:32:36
6 students. 10:32:42
7 Q. So eight students for two sessions 10:32:42
8 each? 10:32:45
9 A. Right. 10:32:46
10 Q. And what was your caseload like at 10:32:50
11 CCA? 10:32:53
12 A. It's roughly the same thing. I 10:32:54
13 know the first year it was slightly less 10:32:57
14 because I think initially there was slightly 10:33:05
15 less need and then there was more, so the 10:33:09
16 second year there was more. But, ultimately 10:33:11
17 you treat roughly eight or nine students a 10:33:14
18 day. 10:33:18
19 Q. And were you observed again at CCA? 10:33:22
20 A. Well, that year I was not, I was 10:33:25
21 supposed to be observed twice more that year. 10:33:30
22 Q. At CCA? 10:33:34
23 A. At CCA and Jerusalem Avenue. But, 10:33:36
24 despite my calling Miss Weisel to ask for the 10:33:38
25 observation because I knew that we were on a 10:33:44

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1 Peritz
2 time frame and that she had already told me 10:33:48
3 that I needed to be observed twice more that 10:33:52
4 year, so as it got closer and closer to the 10:33:55
5 end of the year I became uncomfortable and 10:34:00
6 phoned her. 10:34:05
7 Q. When did you phone her generally? 10:34:05
8 A. At some point towards the end of 10:34:08
9 May, beginning of June. 10:34:12
10 Q. And when you say you were supposed 10:34:15
11 to be observed two more times, at the end of 10:34:17
12 the school year, not the calendar year? 10:34:20
13 A. Yeah. 10:34:22
14 Q. So in 2015 as far as you recollect, 10:34:28
15 you were observed once in May at CCA? 10:34:32
16 A. Yes. 10:34:35
17 Q. And when was the next time you were 10:34:39
18 observed? 10:34:41
19 A. The end of September or beginning 10:34:42
20 of October of the following year. 10:34:47
21 Q. And where were you working then 10:34:52
22 when you were observed? 10:34:54
23 A. I was working also at CCA. CCA had 10:34:55
24 specifically asked for me to work there and 10:35:00
25 so I was placed there. 10:35:04

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1 Peritz
 2 Q. What do you mean they specifically 10:35:05
 3 asked for you to work there, who asked you? 10:35:07
 4 A. Mr. Barrett and Mr. Korolczuk, the 10:35:10
 5 principal, Mr. Barrett's the AP, phoned Janet 10:35:16
 6 Weisel and asked -- said they were so pleased 10:35:20
 7 with my work and they asked me to be placed 10:35:22
 8 at CCA again. 10:35:25
 9 Q. And the assistant principal and the 10:35:26
 10 principal of CCA would have observed you 10:35:28
 11 working at CCA? 10:35:31
 12 A. No. Well, they observe you with 10:35:32
 13 the students, but they don't come in. 10:35:35
 14 Q. I don't mean formal observation, I 10:35:38
 15 mean they would have seen you working with
 16 the students? 10:35:40
 17 A. Yes. 10:35:40
 18 Q. And you knew them both? 10:35:40
 19 A. Yes. 10:35:42
 20 Q. And you had met them previously on 10:35:42
 21 a number of occasions? 10:35:45
 22 A. Yes. 10:35:46
 23 Q. Do you know roughly when they 10:35:51
 24 phoned Miss Weisel to invite you back? 10:35:54
 25 A. During the summer. 10:35:57

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1 Peritz
 2 Q. So where were you observed at the 10:35:59
 3 end of September or the beginning of October 10:36:01
 4 of 2016, at CCA? 10:36:03
 5 A. I was observed at RKS, Rosemary 10:36:05
 6 Kennedy School, and CCA. 10:36:11
 7 Q. At the same time? 10:36:12
 8 A. Well, not the same exact minute, 10:36:14
 9 but, yeah. 10:36:18
 10 Q. The same day? 10:36:18
 11 A. No, like a couple days apart. 10:36:19
 12 Q. But, you don't recall the dates? 10:36:22
 13 A. No, it may say it here. 10:36:25
 14 Q. When did you transition to the 10:36:30
 15 Rosemary Kennedy School? 10:36:32
 16 A. In September of 2015. 10:36:34
 17 Q. At the beginning of the month, 10:36:39
 18 middle of the month? 10:36:43
 19 A. Whenever school opened. I didn't 10:36:44
 20 start on the first day, but, you know, 10:36:47
 21 shortly thereafter. 10:36:53
 22 Q. And why were you transitioned to 10:37:05
 23 Rosemary Kennedy School? 10:37:23
 24 A. Because I loved Jerusalem Avenue 10:37:24
 25 and I had asked Miss Weisel that she said 10:37:26

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1 Peritz
 2 openings at Jerusalem Avenue didn't occur 10:37:30
 3 until midyear and so there was a need at RKS, 10:37:32
 4 so that's where I was placed. 10:37:39
 5 Q. What is the student population at 10:37:44
 6 RKS? 10:37:50
 7 A. The RKS population goes from 10:37:51
 8 elementary school age until 21. 10:37:55
 9 Q. And what type of issues did those 10:38:00
 10 students have? 10:38:04
 11 A. Those students have medical in both 10:38:05
 12 developmental delays diagnoses honestly 10:38:09
 13 similar to the population at St. Mary's. 10:38:14
 14 Q. Do you recall what your caseload 10:38:16
 15 was at RKS? 10:38:18
 16 A. Well, it was a rough split, so 10:38:20
 17 basically I was two days there and three days 10:38:27
 18 at CCA. 10:38:31
 19 Q. What do you mean by "rough split"? 10:38:32
 20 A. In other words, because they're 10:38:35
 21 both in the same building and because the CCA 10:38:37
 22 population go out to work sites and because 10:38:40
 23 we make our own schedules I didn't do two 10:38:45
 24 days in one and three in the other. There 10:38:49
 25 was a day that I started my day at CCA, 10:38:52

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1 Peritz
 2 walked up the stairs to RKS, and then walked 10:38:56
 3 back down the stairs to CCA or stayed at RKS 10:39:00
 4 depending on how it worked out so that all 10:39:06
 5 the kids got the treatment they were 10:39:09
 6 warranted. 10:39:11
 7 Q. So by "rough split" you just meant 10:39:13
 8 not perfectly even? 10:39:16
 9 A. Yeah, but I was predominantly at 10:39:18
 10 CCA. 10:39:21
 11 Q. So you stated the next time you 10:39:23
 12 were observed after your May 2015 observation 10:39:26
 13 at CCA was at the end of September or 10:39:29
 14 beginning of October at RKS? 10:39:31
 15 A. Yes. 10:39:34
 16 Q. Who conducted that observation? 10:39:34
 17 A. Janet Weisel. 10:39:37
 18 Q. Where were you observed? 10:39:39
 19 A. I was observed in the therapy area 10:39:43
 20 upstairs, there are several of them. 10:39:51
 21 Q. Was anyone else present other than 10:39:55
 22 you, the student, and Miss Weisel? 10:39:57
 23 A. Yeah, lots of people. There was 10:39:59
 24 the student's aid and other therapists, but 10:40:03
 25 they weren't, you know, sitting and watching 10:40:11

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1 Peritz
2 us, they were doing whatever they did. 10:40:14
3 Q. Do you recall anything in 10:40:17
4 particular happening at that observation? 10:40:24
5 A. Well, lots of things. I should 10:40:27
6 start by saying that school must have started 10:40:34
7 sort of late that year because of the Jewish 10:40:39
8 holidays and the way it all worked out and 10:40:43
9 then, as I said, I started later because I 10:40:46
10 had physician appointments and because I 10:40:50
11 needed to get my accommodation in place they 10:40:53
12 would not let me start until that was in 10:40:57
13 place. So, when I went to get the student it 10:40:59
14 was the second time -- this was the second 10:41:03
15 time I saw him and when I walked into his 10:41:06
16 classroom he was fast asleep and it was 10:41:10
17 impossible to arouse him and -- 10:41:13
18 Q. I just want to be clear, you 10:41:18
19 typically go and get the students somewhere 10:41:19
20 and then bring them to the therapy room? 10:41:22
21 A. Yes, at that school. 10:41:24
22 Q. At RKS? 10:41:26
23 A. Yeah. And so the teacher suggested 10:41:28
24 to me that he was really out of it, they 10:41:32
25 weren't sure what his mom may have given him, 10:41:34

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1 Peritz
2 and that she really thought I should just not 10:41:40
3 take him, but I said -- 10:41:44
4 Q. And who was his teacher, what was 10:41:47
5 her name or his name? 10:41:49
6 A. I have no clue, no idea at all. 10:41:50
7 Q. Did you recognize him or her? Was 10:41:53
8 it a female or a male teacher? 10:41:55
9 A. It was a female teacher. 10:41:58
10 Q. But, you recognized her as being a 10:41:59
11 teacher at the school? 10:42:02
12 A. In that room, yeah. 10:42:03
13 Q. You just don't recall her name? 10:42:04
14 A. I don't know any of -- you know, I 10:42:05
15 was at RKS a very short time and -- 10:42:07
16 Q. Okay. So you picked the student up 10:42:12
17 and he was asleep? 10:42:14
18 A. He was asleep. Well, we finally 10:42:14
19 got him up, she helped me, and we finally got 10:42:17
20 him into the -- to walk down the hall with 10:42:21
21 his aid to the therapy room and because -- at 10:42:23
22 RKS I didn't actually have especially at that 10:42:33
23 point a place to work because every time I 10:42:37
24 went they sent me to a different area. 10:42:41
25 Q. Every time you went where? 10:42:44

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1 Peritz
2 A. Upstairs to RKS. 10:42:46
3 Q. Okay. 10:42:48
4 A. And also it was only the second 10:42:49
5 time he saw me just as it was the second time 10:42:52
6 I saw him. So, he saw a mat and he had just 10:42:55
7 been sleeping on a mat and he made a bee line 10:42:59
8 for that mat and attempted to lie down and I 10:43:03
9 saw that that was about to happen -- 10:43:08
10 Q. And now, I'm sorry, you're in the 10:43:09
11 room with Miss Weisel observing you where 10:43:12
12 this mat is? 10:43:14
13 A. Yes. 10:43:15
14 Q. Okay. 10:43:16
15 A. So, I made a bee line for the mat 10:43:17
16 to kind of prevent him from totally lying 10:43:21
17 down. He was sitting on it with his feet out 10:43:24
18 and kind of like reclining half, but he 10:43:26
19 wasn't like sleeping. Did you have more of 10:43:29
20 the question? I don't know, maybe I answered 10:43:35
21 it. 10:43:36
22 MS. KALLUS: Just wait for her 10:43:39
23 question. 10:43:41
24 Q. So at this observation, did you 10:43:41
25 speak with Miss Weisel during the 10:43:44

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1 Peritz
2 observation? 10:43:46
3 A. I'm not sure. 10:43:47
4 Q. Did you speak with her immediately 10:43:48
5 after? 10:43:51
6 A. Yes. 10:43:51
7 Q. And did she review the observation 10:43:52
8 of your performance? 10:43:55
9 A. Yes. 10:43:56
10 Q. And what did she say? 10:43:57
11 A. She said that, you know, obviously 10:43:58
12 it was really not great, he was very out of 10:44:01
13 it and it was almost impossible to arouse him 10:44:05
14 and I -- 10:44:09
15 Q. She said that? 10:44:10
16 A. She said that, I mean that was 10:44:11
17 obvious that -- you know, she said it, I said 10:44:12
18 it, we both said it. I told her that the 10:44:14
19 teacher thought I should probably not do it 10:44:18
20 and then I -- but, I only did it because she 10:44:21
21 was there and she said she understood that. 10:44:25
22 She said she really wasn't looking so much at 10:44:27
23 him, but how I dealt with it and then she 10:44:31
24 said that I was panicked and didn't really 10:44:34
25 like deal so well with it which is 10:44:38

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1 Peritz
 2 certainly -- you know, I didn't know how to 10:44:40
 3 get him up, I couldn't get him up. 10:44:42
 4 And then we discussed the fact that 10:44:46
 5 he decided to take off his shoes and socks 10:44:50
 6 and I tried to stop him, but most of these 10:44:54
 7 kids are double my size and probably double 10:45:00
 8 all of your size. And I couldn't physically 10:45:02
 9 stop him, so his shoes and socks came off. 10:45:06
 10 But, when it was time to leave I told him to 10:45:09
 11 put them on and I started helping him put 10:45:13
 12 them on and it became clear to me that he was 10:45:16
 13 actually participating in putting them on, so 10:45:20
 14 I backed off and I let him put on his shoes 10:45:23
 15 and socks. 10:45:28
 16 And what I learned was that, in 10:45:29
 17 fact, he was able to do it, almost even tie 10:45:31
 18 it. And so I expressed to Miss Weisel that I 10:45:38
 19 was really excited about that because I 10:45:42
 20 thought that was a valuable piece of 10:45:45
 21 information, but -- and that none of us, the 10:45:50
 22 teacher, nobody knew that information, and so 10:45:57
 23 we discussed that. 10:46:01
 24 And then she said she didn't really 10:46:04
 25 want to judge my tenure based on this 10:46:07

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1 Peritz
 2 observation because it obviously was not a 10:46:11
 3 great observation, so she wanted to come 10:46:16
 4 again and I expressed to her that I barely 10:46:19
 5 knew any of the kids at RKS, that most of 10:46:27
 6 them I had only seen once before, if that, 10:46:32
 7 and that I was so uncomfortable because there 10:46:36
 8 was no guaranteeing that this wasn't going to 10:46:41
 9 happen again with a different kid. So, I 10:46:43
 10 asked her if she could come to CCA and she 10:46:46
 11 agreed to come once to CCA and once to RKS, 10:46:49
 12 but that -- 10:46:54
 13 Q. Once more to RKS? 10:46:54
 14 A. Yes. 10:46:57
 15 Q. But, did you appreciate her 10:46:58
 16 willingness to view you at CCA? 10:47:00
 17 A. Right. But, her time frame was 10:47:02
 18 very, very limited because all of this was 10:47:05
 19 really supposed to be done in the spring and 10:47:08
 20 she had to make a really quick 10:47:14
 21 recommendation. 10:47:16
 22 Q. But, in the spring of 2015 you had 10:47:16
 23 just started working, correct, at Nassau 10:47:20
 24 BOCES?
 25 A. Well, no, not really. I had 10:47:25

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1 Peritz
 2 started in early spring, so by the end of the 10:47:26
 3 spring it was certainly much more time with 10:47:31
 4 those kids than I had had with any of the 10:47:35
 5 kids in the fall. 10:47:39
 6 Q. So when was the evaluation at CCA 10:47:40
 7 done? 10:47:44
 8 A. The two evaluations were done one 10:47:45
 9 day apart, if this was like a Thursday on 10:47:48
 10 Monday and Tuesday. I'm not sure of the 10:47:53
 11 dates, but it was the very next week and then 10:47:54
 12 they were done one day apart. 10:47:57
 13 Q. Following the RKS observation you 10:47:59
 14 just described? 10:48:02
 15 A. Yes. 10:48:02
 16 Q. So Miss Weisel observed you at CCA 10:48:03
 17 a few days later? 10:48:06
 18 A. Yes. 10:48:07
 19 Q. But, you don't recall exactly when, 10:48:07
 20 it might have been the end of September, 10:48:09
 21 early October? 10:48:11
 22 A. Right. 10:48:12
 23 Q. And where did she observe you at 10:48:13
 24 CCA? 10:48:15
 25 A. In the therapy room where I 10:48:15

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1 Peritz
 2 treated. 10:48:18
 3 Q. And again, was anyone else present? 10:48:19
 4 A. Not during the entire observation, 10:48:23
 5 but -- oh, maybe actually. The student this 10:48:26
 6 time that I was observed with was having a 10:48:33
 7 mini meltdown as she came in, so she walked 10:48:39
 8 in with her psychologist, her aid, and her. 10:48:43
 9 Q. "Her" meaning the student? 10:48:47
 10 A. The student. 10:48:49
 11 Q. So there was the student's 10:48:52
 12 psychologist, the student's aid, the student, 10:48:54
 13 and who else you said? 10:48:56
 14 A. Me and Miss Weisel. But, then the 10:48:57
 15 psychologist and I conferred and we got 10:49:00
 16 something set up that would be agreeable to 10:49:05
 17 everybody and then he left. 10:49:10
 18 Q. The psychologist left? 10:49:12
 19 A. Right. 10:49:15
 20 Q. And did you speak to Miss Weisel 10:49:17
 21 during the observation? 10:49:21
 22 A. I don't remember. 10:49:24
 23 Q. And then immediately after, did she 10:49:25
 24 review your performance and discuss the 10:49:27
 25 observation? 10:49:29

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1 Peritz
2 A. Briefly. 10:49:30
3 Q. And what did she discuss? 10:49:32
4 A. Well, that she couldn't see all of 10:49:34
5 it because part of it we were doing in a 10:49:37
6 closet organizing things and she couldn't 10:49:43
7 actually see what the student was doing, but 10:49:46
8 that it looked to her like I gave her too 10:49:51
9 much help. 10:49:56
10 Q. And she stated to you she couldn't 10:49:59
11 see what you were doing? 10:50:01
12 A. Yes. 10:50:03
13 Q. And she also stated that she 10:50:06
14 thought you gave the student too much help? 10:50:08
15 A. Yes. 10:50:10
16 Q. Anything else? 10:50:12
17 A. Not that I can remember. 10:50:16
18 Q. When was your annual evaluation 10:50:17
19 conducted, do you recall? 10:50:21
20 A. The annual observation -- well, the 10:50:22
21 evaluation was conducted in June of the 10:50:27
22 previous year. 10:50:30
23 Q. And where were you employed during 10:50:32
24 that time, at CCA and Jerusalem Avenue? 10:50:36
25 A. Yes. 10:50:39

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1 Peritz
2 MS. RUDNICKI: I'm going to ask 10:50:42
3 that this document be marked as 10:50:44
4 Respondents' B, please. 10:50:46
5 (Respondents' Exhibit B, one page
6 photocopy of classified employee
7 evaluation report dated 6/5/15, marked
8 for identification, as of this date.) 10:51:45
9 Q. So, Miss Peritz, this is your 10:51:45
10 annual evaluation dated June 5, 2015 10:51:47
11 (handing). 10:51:51
12 A. Yes. 10:51:51
13 Q. If you can take a look at it, do 10:51:52
14 you recognize the document? 10:51:56
15 A. Yeah. 10:51:57
16 Q. And this is the annual evaluation 10:51:58
17 that was done by Miss Weisel? 10:52:02
18 A. Yes. 10:52:04
19 Q. Is that your signature on the 10:52:05
20 bottom of the document? 10:52:06
21 A. Yes. 10:52:07
22 Q. Did you review it before you signed 10:52:08
23 it? 10:52:10
24 A. Yes. 10:52:10
25 Q. Was the information on that true 10:52:11

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1 Peritz
2 and accurate, to your knowledge? 10:52:13
3 A. Yes. 10:52:14
4 Q. You state in your notice of claim 10:52:15
5 that you considered the evaluation to be very 10:52:19
6 good, is that still your belief? 10:52:23
7 A. Yeah, there are two options and I 10:52:25
8 was told that -- which is obvious I got the 10:52:30
9 top option, the other option would be 10:52:35
10 negative. 10:52:38
11 Q. So, Miss Peritz, you're referring 10:52:38
12 to the fact that there is a satisfactory and 10:52:39
13 unsatisfactory category and you got marked 10:52:41
14 satisfactory? 10:52:45
15 A. Right. 10:52:46
16 Q. On quality of work, quantity of 10:52:46
17 work, work habits, dependability, attendance, 10:52:49
18 interpersonal skills, under supervisory 10:52:51
19 skills it says "not applicable"? 10:52:53
20 A. Right. 10:52:54
21 Q. The first line if you'll read along 10:52:55
22 with me it states "Diane is new to Nassau 10:52:57
23 BOCES as of April 14th 2015," would you 10:52:59
24 describe that as a neutral comment, a very 10:53:02
25 good evaluation, how would you describe that? 10:53:05

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1 Peritz
2 A. Neutral. 10:53:07
3 Q. "In that short period of time she's 10:53:08
4 been assigned to a caseload split between The
5 Center for Community Adjustment as well as
6 the Jerusalem Avenue School," how would you
7 describe that comment? 10:53:12
8 A. Neutral, just facts. 10:53:12
9 Q. "Diane was able to set up a 10:53:18
10 schedule for herself at both programs, not 10:53:20
11 always an easy feat," how would you describe 10:53:23
12 that comment? 10:53:25
13 A. Positive. 10:53:26
14 Q. "She worked with both elementary 10:53:26
15 and high school aged students with learning 10:53:29
16 disabilities and/or emotional difficulties." 10:53:32
17 A. Neutral. 10:53:34
18 Q. "Diane is orienting herself to 10:53:36
19 the," quote "BOCES way," unquote, "and is 10:53:39
20 unafraid to ask questions to do this more 10:53:42
21 efficiently." 10:53:43
22 A. Positive. 10:53:43
23 Q. And then it says "well, Diane." 10:53:44
24 A. And that's positive. 10:53:47
25 Q. How long had you been working at 10:53:52

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1 Peritz

2 Nassau BOCES at the time this evaluation was 10:53:55

3 done? 10:53:58

4 A. Obviously from April 14, 2015 to 10:53:58

5 June 5th 2015. 10:54:02

6 Q. Let's get back to when you were 10:54:06

7 next observed at CCA, the previous 10:54:08

8 observation that you were talking about 10:54:13

9 earlier. So other than what you testified to 10:54:16

10 earlier that Miss Weisel stated she did not 10:54:37

11 see everything, but that she thought you 10:54:40

12 assisted the student too much, did she state 10:54:42

13 anything to you at that observation? 10:54:45

14 A. Nothing more than I remember. 10:54:47

15 Q. When was the next time you were 10:54:49

16 observed, you said you had another 10:54:54

17 observation at RKS? 10:54:56

18 A. I think it was the next day. 10:54:57

19 Q. The next day after CCA you were 10:54:59

20 observed again? 10:55:02

21 A. Yes. 10:55:03

22 Q. Where were you observed? 10:55:03

23 A. At RKS. 10:55:04

24 Q. And that was the second time you 10:55:05

25 were observed at RKS? 10:55:07

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1 Peritz

2 A. Yes. 10:55:09

3 Q. Do you recall again any date? 10:55:09

4 A. No. 10:55:13

5 Q. But, it would have been again the 10:55:14

6 end of September or early October when these 10:55:16

7 three observations were occurring? 10:55:19

8 A. Yes. 10:55:21

9 Q. And where were you observed at RKS? 10:55:22

10 A. I don't remember. It must have 10:55:32

11 been the therapy room, but honestly I don't 10:55:34

12 remember who I was observed with that third 10:55:37

13 time. 10:55:43

14 Q. So you've testified you were 10:55:45

15 observed in May at CCA, then the end of 10:55:49

16 September or early October at RKS, then at 10:55:52

17 CCA, and now at RKS, so technically this is 10:55:56

18 the fourth observation, correct? 10:56:00

19 A. Yes. 10:56:01

20 Q. And you're saying you don't recall 10:56:02

21 the circumstances of that observation? 10:56:03

22 A. Correct. 10:56:05

23 Q. Do you recall that Miss Weisel was 10:56:05

24 present? 10:56:07

25 A. Well, she's the only person who 10:56:07

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1 Peritz

2 does them, so she had to have been. 10:56:09

3 Q. But, you don't specifically recall? 10:56:11

4 A. I don't remember what student it 10:56:13

5 was, I don't remember. 10:56:15

6 Q. Do you recall any discussion with 10:56:17

7 Miss Weisel during or after? 10:56:19

8 A. Yeah, the part I remember is that 10:56:21

9 afterwards she asked me to go into one of the 10:56:23

10 principal's offices, Bonnie Heller, and she 10:56:31

11 said that she had a meeting in there 10:56:37

12 afterwards so it would be a good place for us 10:56:40

13 to talk. And I went in and we were talking 10:56:42

14 and Bonnie Heller walked in in the middle of 10:56:46

15 my observation discussion and sat down and 10:56:52

16 despite the fact that at one point I said I 10:56:59

17 was uncomfortable because that was very 10:57:03

18 unusual, it was a private conversation and 10:57:08

19 nobody was supposed to come in. Of course it 10:57:10

20 was her office, but it was supposed to be 10:57:13

21 private, and she came in and sat during the 10:57:16

22 entire rest of the conversation. 10:57:19

23 Q. Did she participate in the 10:57:21

24 conversation? 10:57:23

25 A. I don't think she did. 10:57:24

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1 Peritz

2 Q. And when you says it's unusual for 10:57:25

3 the building principal to be present, what do 10:57:27

4 you base that on, the fact that earlier your 10:57:30

5 three observations were alone with her? 10:57:33

6 A. I was told that by other therapists 10:57:34

7 that other principals don't do that, it was 10:57:36

8 confidential, normally it would take place in 10:57:40

9 the therapy room, normally it would take 10:57:42

10 place in a hallway, so it was unusual. 10:57:45

11 Q. When you said "other therapists," 10:57:50

12 after you left the meeting you spoke to other 10:58:00

13 therapists about it? 10:58:03

14 A. Yes. 10:58:04

15 Q. And was it other therapists who 10:58:05

16 told you that observations are confidential? 10:58:07

17 A. Yes. 10:58:10

18 Q. But, you weren't told that by 10:58:12

19 anyone else? 10:58:15

20 A. I didn't ask anyone else. 10:58:16

21 Q. Now, was that the last time you 10:58:18

22 were observed? 10:58:22

23 A. Yes. 10:58:22

24 Q. Was Miss Heller present for any 10:58:23

25 part of the actual interaction with the 10:58:25

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1 Peritz
2 student? 10:58:28
3 A. No. 10:58:28
4 Q. Do you recall what you discussed 10:58:31
5 with Miss Weisel in Miss Heller's present 10:58:35
6 while you were in Miss Heller's office? 10:58:38
7 A. No. 10:58:41
8 Q. You don't recall anything of that 10:58:41
9 conversation? 10:58:43
10 A. Nothing, I don't even remember who 10:58:43
11 the student was. 10:58:48
12 Q. Do you recall the tenor of the 10:58:48
13 conversation, was it a negative review, was 10:58:50
14 it a positive review? 10:58:53
15 A. By then it was my sense that it 10:58:55
16 didn't matter what I did she thought it was 10:58:58
17 negative. 10:59:00
18 Q. Who do you mean by "she"? 10:59:01
19 A. Miss Weisel. 10:59:03
20 Q. Miss Peritz, do you know what an 10:59:07
21 IEP is? 10:59:10
22 A. Can I add something? 10:59:11
23 Q. You have to answer the question 10:59:14
24 that's asked. 10:59:16
25 A. Yes, I know what an IEP is. 10:59:17

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1 Peritz
2 Q. Can you briefly describe what it 10:59:18
3 is? 10:59:22
4 A. An IEP is an individualized 10:59:22
5 education plan, it's a plan set forth on 10:59:27
6 every student for their goals for the school 10:59:30
7 year. 10:59:35
8 Q. And are you likewise familiar with 10:59:36
9 a BIP? 10:59:39
10 A. Yes. 10:59:39
11 Q. And what is that, if you can 10:59:40
12 briefly describe it? 10:59:42
13 A. Is it a behavioral intervention 10:59:43
14 plan and it is the plan that the psychologist 10:59:46
15 sets forth as to how to deal with the 10:59:50
16 behavior problems of every child. Not child, 10:59:53
17 students. 10:59:55
18 Q. Were you familiar with IEPs and 10:59:56
19 BIPs before your arrival at Nassau BOCES? 10:59:57
20 A. Yes, of course. 10:59:59
21 Q. And did you adhere to the 11:00:02
22 recommendations as set forth in the IEPs and 11:00:05
23 BIPs for the students? 11:00:09
24 A. Yes. 11:00:10
25 Q. Did you feel for the most part that 11:00:11

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1 Peritz
2 everything you did with students was of a 11:00:14
3 therapeutic nature? 11:00:16
4 A. Yes. 11:00:18
5 Q. Outside of observations that we've 11:00:23
6 discussed, how often would you see or speak 11:00:26
7 with Miss Weisel? 11:00:30
8 A. I spoke with her a couple of -- 11:00:33
9 three or four times over the summer and 11:00:41
10 really that's not very often other than that. 11:00:49
11 Q. And how many times did you 11:00:54
12 personally interact with Miss Heller? 11:00:57
13 A. Very rarely, maybe three. 11:01:01
14 Q. Aside from these conversations or 11:01:12
15 the observation that finished in her office, 11:01:15
16 what were the other two times you interacted 11:01:18
17 with Miss Heller? 11:01:22
18 A. The first time I had been called to 11:01:23
19 the principal's office to receive a letter 11:01:32
20 and it was signed by Bonnie Heller, so I 11:01:35
21 asked who she was because I had never met her 11:01:38
22 and I went and stood outside her office and I 11:01:41
23 said "are you Bonnie Heller" when she came 11:01:46
24 out because she was in a meeting and she said 11:01:49
25 "yes," and I asked her if I could speak with 11:01:52

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1 Peritz
2 her about the letter I had gotten. Then at 11:01:57
3 the disciplinary meeting -- 11:02:01
4 Q. I'm sorry, before you get to the 11:02:02
5 disciplinary meeting when you stood outside 11:02:04
6 her office waiting for her to be done with 11:02:06
7 the meeting and then asked if she was Bonnie 11:02:08
8 Heller and that you wanted to speak with her, 11:02:11
9 did you indeed have a conversation with her 11:02:13
10 at that time? 11:02:15
11 A. Well, very brief. 11:02:15
12 Q. And what was the conversation 11:02:16
13 about? 11:02:18
14 A. I asked her what the letter was 11:02:18
15 about and she said she wasn't at liberty to 11:02:20
16 tell me and she encouraged me to use her 11:02:23
17 phone and all Janet. 11:02:27
18 Q. And did you do that? 11:02:29
19 A. Yes. 11:02:30
20 Q. And who handed you the letter or 11:02:31
21 how did you -- 11:02:33
22 A. The secretary. 11:02:34
23 Q. The secretary where? 11:02:34
24 A. At the RKS office. 11:02:36
25 Q. Did you call Miss Weisel at that 11:02:41

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1 Peritz
2 time? 11:02:43
3 A. Yes. 11:02:43
4 Q. Did you reach her? 11:02:49
5 A. I think so. 11:02:52
6 Q. And did you have a conversation 11:02:53
7 with her? 11:02:54
8 A. She said she wasn't at liberty to 11:02:54
9 discuss it either, so she directed me to call 11:02:58
10 the union representative. 11:03:01
11 Q. And did you do that? 11:03:02
12 A. And she gave me his information, 11:03:03
13 yes. 11:03:07
14 Q. So can you explain to me the dates 11:03:10
15 of the school terms, so when did the 2015 11:03:31
16 school year end? 11:03:34
17 A. In June. 11:03:38
18 Q. Middle of June, end of June? 11:03:43
19 A. I guess technically they end the 11:03:46
20 last week in June, but I'm not sure. 11:03:49
21 Q. When does summer term begin? 11:03:52
22 A. Probably the first week of July. 11:03:55
23 Q. And I think you testified earlier 11:04:01
24 that you worked during the summer term of 11:04:03
25 2015? 11:04:06

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1 Peritz
2 A. Yes. 11:04:07
3 Q. Where were you working during the 11:04:09
4 summer? 11:04:11
5 A. CCA. 11:04:12
6 Q. Exclusively? 11:04:13
7 A. Yes. 11:04:14
8 Q. And what was your caseload during 11:04:15
9 the summer? 11:04:17
10 A. I think it's the same as it is 11:04:19
11 during the year. 11:04:22
12 Q. So you have about eight children a 11:04:23
13 day for about two days? 11:04:25
14 A. Actually, no, I was there three 11:04:27
15 days. You probably have more than that 11:04:29
16 because they only go half the day. No, you 11:04:31
17 could still have eight, it would just be -- 11:04:36
18 you still treat eight kids, but they get less 11:04:39
19 therapy and they're only there half the day, 11:04:43
20 so more kids, but the same amount of 11:04:46
21 treatment time if that makes sense. Does 11:04:49
22 that make sense? 11:04:52
23 Q. Yes. 11:04:54
24 A. Okay. 11:04:55
25 Q. In paragraph 14 of your notice of 11:04:55

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1 Peritz
2 claim you stated that on August 11th 2015 you 11:04:57
3 woke up in great pain; is that accurate? 11:05:00
4 A. Yes. 11:05:02
5 Q. Did you attend work that day? 11:05:02
6 A. No. 11:05:03
7 Q. When was the next time you went to 11:05:04
8 work? 11:05:06
9 A. I never went back to work that 11:05:06
10 summer. 11:05:09
11 Q. So do you recall what date? You 11:05:10
12 said the second week of September you started 11:05:12
13 again? 11:05:15
14 A. Something like that. 11:05:15
15 Q. And you stated you were treated for 11:05:17
16 this pain by Dr. Beer? 11:05:19
17 A. Amongst other people, yes. 11:05:21
18 Q. When you say you immediately went 11:05:23
19 to Dr. Beer in your notice of claim -- 11:05:25
20 A. He had been recommended to me and 11:05:29
21 so I called and I was lucky enough to get an 11:05:32
22 appointment that morning. 11:05:36
23 Q. But, you had never been treated by 11:05:37
24 him previously? 11:05:39
25 A. No, I knew him before. 11:05:40

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1 Peritz
2 Q. You had treated with him prior? 11:05:42
3 A. Yes. 11:05:45
4 Q. For? 11:05:48
5 A. For back pain about four years 11:05:48
6 earlier, but very different. 11:05:53
7 Q. And I take it he's a medical doctor 11:05:57
8 obviously? 11:05:59
9 A. He's a pain specialist, I guess 11:06:00
10 orthopedic pain specialist. 11:06:03
11 Q. Did he provide a diagnosis at that 11:06:07
12 first visit? 11:06:10
13 A. No, his assumption at the first 11:06:11
14 visit was that it was the previous possible, 11:06:15
15 you know, like back disk herniation that 11:06:23
16 bothered me before and that his -- that it 11:06:26
17 had obviously majorly exacerbated because I 11:06:32
18 could barely stand up, so he said -- the next 11:06:36
19 day he gave epidurals, so he would put me on 11:06:39
20 for an epidural, but if it didn't work then 11:06:42
21 we needed to do an MRI to see if, in fact, it 11:06:45
22 was the same problem or not. 11:06:50
23 Q. And how did you get to your visits, 11:06:51
24 were you able to drive yourself? 11:06:54
25 A. I went to the first visit on April 11:06:55

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1 Peritz
2 11th myself. 11:06:58
3 Q. I'm sorry, August 11th? 11:06:59
4 A. August 11th myself, and then by the 11:07:01
5 next morning I could no longer walk along so 11:07:06
6 then the next day my friend drove me. 11:07:09
7 Q. Can you describe briefly your 11:07:12
8 symptoms at that time? 11:07:14
9 A. I had severe pain in my left 11:07:14
10 buttocks going into my hip and in my low back 11:07:20
11 so severe that I could barely walk and when I 11:07:26
12 stood up for longer than, I don't know, a 11:07:32
13 couple of minutes I started throwing up from 11:07:37
14 pain. 11:07:39
15 Q. Did he prescribe any medication 11:07:40
16 other than providing you with an epidural on 11:07:43
17 that first visit? 11:07:46
18 A. I think the first visit he just 11:07:48
19 said to take -- I had been previously taking 11:07:51
20 Tylenol which is, you know, benign and just 11:07:57
21 to continue with that. The hope was because 11:07:59
22 when -- again, my condition was very 11:08:03
23 different four years earlier, but when I had 11:08:05
24 had an epidural four years earlier it had 11:08:12
25 worked right away and I was fine. 11:08:16

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1 Peritz
2 Q. And then were the symptoms 11:08:18
3 initially more pronounced than they became 11:08:21
4 later on? 11:08:24
5 A. No. Well, they got worse before 11:08:25
6 they got better. 11:08:28
7 Q. How long did it take for it to 11:08:29
8 start improving? 11:08:35
9 A. I had had three epidurals by the 11:08:36
10 time it was improving, had been on major 11:08:39
11 painkillers, again I forget what its name 11:08:43
12 was, had gone to the ER, had spent close to 11:08:47
13 three weeks in bed unable to move, and then 11:08:53
14 after the third epidural -- well, actually 11:08:58
15 after the second epidural it started 11:09:02
16 improving and two MRIS and was in acupuncture 11:09:05
17 as well. And after the second epidural it 11:09:10
18 started improving a little bit and after the 11:09:16
19 third epidural it improved a little bit more, 11:09:19
20 but then I was also very weak so I needed to 11:09:23
21 built up strength and so forth. 11:09:29
22 Q. What was the ultimate diagnosis? 11:09:31
23 A. Spinal stenosis. 11:09:34
24 Q. And have you treated with anyone 11:09:36
25 else regarding this condition? 11:09:39

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1 Peritz
2 A. Yes, I went to -- 11:09:41
3 Q. Who else did you treat with? 11:09:42
4 A. I went to a hip specialist at Lenox 11:09:43
5 Hill Hospital and he felt it was not my hip 11:09:47
6 and then -- 11:09:50
7 Q. Do you recall his name? 11:09:50
8 A. I don't. Oh, Rodriguez, Dr. 11:09:51
9 Rodriguez. And then I am still under the 11:09:54
10 care of Dr. Matusz in Lenox Hill, he's a 11:09:56
11 spinal surgeon, and he evaluated me for 11:10:03
12 surgery, but by the time I saw him I had 11:10:11
13 started to improve and so he said we're 11:10:14
14 not -- surgery is not warranted at this time. 11:10:16
15 Q. Are you still treating with 11:10:20
16 Dr. Beer? 11:10:23
17 A. I guess I'm always treating with 11:10:23
18 Dr. Beer, but only if there's an 11:10:25
19 exacerbation. 11:10:30
20 Q. Did you submit a note from Dr. Beer 11:10:30
21 to BOCES after August 11th 2015 when you 11:10:34
22 first woke up with the pain, but before the 11:10:37
23 end of the summer term? 11:10:40
24 A. No. 11:10:41
25 Q. When did you contact your employer 11:10:46

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1 Peritz
2 to let them know you weren't returning to 11:10:49
3 work or you couldn't return to work? 11:10:52
4 A. Well, I called August 11th the 11:10:54
5 office at CCA and told them what was going on 11:10:57
6 because I was supposed to go that morning. 11:11:02
7 Q. Did you speak to Miss Weisel on 11:11:05
8 August 11th? 11:11:07
9 A. No. 11:11:08
10 Q. When did you speak to Miss Weisel 11:11:08
11 next? 11:11:10
12 A. I think there was one more week of 11:11:11
13 summer session left and I was aware of that 11:11:18
14 and was concerned that I had final paperwork 11:11:22
15 to do, so I called over to CCA and spoke with 11:11:26
16 Mr. Barrett about doing my final paperwork. 11:11:31
17 Q. And Mr. Barrett you said is the 11:11:35
18 assistant principal at CCA? 11:11:37
19 A. Right, he was in charge of the 11:11:39
20 summer session. 11:11:40
21 Q. What final paperwork, what do you 11:11:41
22 mean by that? 11:11:44
23 A. Giving in the attendance, the 11:11:45
24 notes, et cetera. 11:11:47
25 Q. What did Mr. Barrett tell you? 11:11:48

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1 Peritz
2 A. Well, I told Mr. Barrett that I was 11:11:50
3 too ill to actually walk to CCA, but that if 11:11:53
4 I had a friend bring me in and I had already 11:12:01
5 called the nurse's office and discovered 11:12:06
6 there was a wheelchair at the entrance that 11:12:08
7 they could provide me with, that if I were to 11:12:11
8 come in could I do my final paperwork and 11:12:14
9 give it to him. 11:12:16
10 Q. And what did he say? 11:12:17
11 A. He said yes, and then because I was 11:12:18
12 going to be missing I guess the last week I 11:12:23
13 called over to Janet Weisel and told her what 11:12:28
14 I had worked out and what had happened to me 11:12:32
15 and how ill I was. 11:12:35
16 Q. And what did Miss Weisel say to you 11:12:40
17 at that time? 11:12:42
18 A. She said she was surprised that 11:12:42
19 Mr. Barrett allowed me to do that, that she 11:12:46
20 wasn't really comfortable with it, but she 11:12:50
21 offered to go and do that final paperwork for 11:12:53
22 me if I could talk her through it. 11:12:56
23 Q. And is this what happened? 11:12:59
24 A. Yes. 11:13:00
25 Q. And the paperwork was completed? 11:13:01

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1 Peritz
2 A. Yes. 11:13:04
3 Q. Did you appreciate Miss Weisel 11:13:05
4 doing that? 11:13:07
5 A. Yes, of course, and she appreciated 11:13:08
6 the fact that I was so organized, she made a 11:13:10
7 point of saying -- because I was so concerned 11:13:15
8 that this was going to negatively impact on 11:13:17
9 me and she said "you're so organized and you 11:13:19
10 didn't know that I was going to come and look 11:13:22
11 at all of your papers, I'm so impressed with 11:13:25
12 how you work." 11:13:28
13 Q. You said that to you over the 11:13:28
14 phone? 11:13:30
15 A. Yes. 11:13:30
16 Q. Do you recall when? 11:13:30
17 A. That last day of school in the 11:13:31
18 summer. 11:13:34
19 Q. Did you have any other 11:13:37
20 conversations during the summer session with 11:13:42
21 the administration, human resources, or any 11:13:45
22 of your supervisors regarding your condition? 11:13:48
23 A. No. 11:13:50
24 Q. And you said earlier you don't 11:13:53
25 recall exactly when fall of 2015/2016 began? 11:13:55

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1 Peritz
2 A. It was early, but I don't remember. 11:14:01
3 Q. It was early, I thought you said it 11:14:03
4 was late because of the Jewish holidays? 11:14:06
5 A. I think maybe the kids came later, 11:14:09
6 but I think it was earlier because they 11:14:16
7 started the teachers first, teachers start 11:14:16
8 before kids. 11:14:19
9 Q. So you also state in your notice of 11:14:20
10 claim, I believe it's paragraph 21, that you 11:14:23
11 suggested taking more time off until you were 11:14:26
12 stronger before returning in the fall? 11:14:28
13 A. Yes. 11:14:30
14 Q. Is that accurate? 11:14:30
15 A. Yes. 11:14:31
16 Q. Does that mean you would have 11:14:31
17 preferred not to come back to work at that 11:14:33
18 time? 11:14:35
19 A. Yeah. 11:14:35
20 Q. And did you return to work? 11:14:35
21 A. Yes. 11:14:37
22 Q. Where were you working? 11:14:37
23 A. At that point I was going to be 11:14:38
24 working at CCA and I was going to be working 11:14:40
25 at RKS. But, by the time school started I 11:14:43

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1 Peritz
2 was obviously able to stand up without 11:14:47
3 throwing up, I was able to walk. I was 11:14:51
4 walking very slowly, but I was able to walk 11:14:55
5 and I had -- 11:14:59
6 Q. And was there anything you couldn't 11:15:01
7 do? 11:15:02
8 A. -- and I had lost about 15 pounds 11:15:02
9 from throwing up from pain. 11:15:07
10 Q. Miss Peritz, going forward I just 11:15:10
11 ask you to answer the question that's asked 11:15:12
12 of you. Okay? If I'm asking you a question, 11:15:14
13 you'll have to stop what you're saying and 11:15:16
14 answer the question. Okay? 11:15:17
15 A. How come you can interrupt me and I 11:15:18
16 can't interrupt you? 11:15:22
17 MS. KALLUS: She doesn't have to 11:15:25
18 answer that. There's no pending 11:15:26
19 question right now, it's about two about 11:15:28
20 hours, do you want to take a little 11:15:30
21 break? 11:15:32
22 THE WITNESS: Yeah, I'd love to go 11:15:33
23 to the bathroom. 11:15:35
24 (Short recess was taken.) 11:15:36
25 Q. So when you returned to work in 11:18:34

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1 Peritz
2 September, Miss Peritz, was there anything 11:23:40
3 you couldn't do? You said you could walk now 11:23:42
4 and -- 11:23:45
5 A. Yeah, I was very weak and I was 11:23:45
6 told not to do anything that would exacerbate 11:23:51
7 my condition, so not to lift more than five 11:23:55
8 pounds, not to push or pull, not to fall, you 11:23:59
9 know, to basically treat myself with kid 11:24:08
10 gloves. It's why I wanted to delay my return 11:24:11
11 because I was told by the doctor that I 11:24:16
12 was -- now I was on the mend, but -- 11:24:20
13 Q. When did you first inform BOCES of 11:24:23
14 your request for accommodations? 11:24:27
15 A. Well, about a week to ten days 11:24:30
16 before school was about to start I called 11:24:37
17 Miss Weisel and told her what was going on 11:24:41
18 and that I still was not fine and that I had 11:24:45
19 been so ill and then she told me that what I 11:24:48
20 needed to do was make a request for 11:24:53
21 accommodations. I had never heard of that 11:24:55
22 before, so I then phoned my doctor to do 11:24:58
23 that. 11:25:04
24 Q. When did you submit the note from 11:25:06
25 your doctor? 11:25:09

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1 Peritz
2 A. As soon as I received it and I 11:25:10
3 believe it was just before school started 11:25:12
4 because he was away. 11:25:17
5 Q. Do you recall what the note stated? 11:25:21
6 A. The first note just said that I 11:25:25
7 shouldn't lift and that my condition was -- 11:25:28
8 what my condition was and that I shouldn't 11:25:34
9 lift, I'm not sure what else it said. 11:25:36
10 Q. And so you transmitted that letter 11:25:39
11 by fax? 11:25:42
12 A. I don't remember. 11:25:42
13 Q. And who do you speak with after you 11:25:44
14 submitted the doctor's note? 11:25:47
15 A. They had a meeting. 11:25:48
16 Q. They is? 11:25:50
17 A. They, BOCES, had a meeting here in 11:25:51
18 this room with human resources. Selma 11:25:55
19 Shelton and Janet and some other man, I don't 11:26:06
20 know what his job was. And then both the 11:26:11
21 principal of CCA and the principal -- one of 11:26:14
22 the principals, but I didn't know there was 11:26:19
23 more than one of RKS were on the telephone 11:26:22
24 and because RKS and CCA are in the same 11:26:25
25 building they were in the same room. 11:26:29

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1 Peritz
2 Q. And you were present for this 11:26:31
3 meeting in this room? 11:26:33
4 A. I was in this room. 11:26:34
5 Q. And what was discussed at that 11:26:35
6 conference? 11:26:38
7 A. They just read the doctor's note 11:26:38
8 and they accepted it and Miss Shelton said 11:26:42
9 that as I worked we would likely find that 11:26:50
10 there might be other things that I needed and 11:26:54
11 I shouldn't hesitate to ask for them and that 11:26:57
12 I should -- when I went to CCA later that day 11:27:02
13 because I was supposed to start at -- I'm 11:27:08
14 sorry, not CCA, RKS later that day that I 11:27:11
15 should go in and introduce myself because I 11:27:14
16 didn't even know the principal and he didn't 11:27:15
17 know me and I guess that was it. 11:27:18
18 Q. And were you pleased with the 11:27:24
19 outcome, did you feel that you had been 11:27:27
20 heard? 11:27:30
21 A. Yeah. 11:27:30
22 Q. Did you, in fact, go and introduce 11:27:31
23 yourself to the RKS principal? 11:27:34
24 A. Yes, I did. 11:27:36
25 Q. Was there any additional purpose of 11:27:37

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1 Peritz
2 introducing yourself to the RKS principal? 11:27:39
3 A. No. 11:27:42
4 Q. When did you next speak to a member 11:27:45
5 of the BOCES staff regarding accommodations 11:27:47
6 and where was that? 11:27:50
7 A. I didn't really. Oh, actually 11:27:51
8 later that day I started treating at -- no, 11:27:54
9 it probably wasn't that day. Probably that 11:27:57
10 day I got my caseload and I started putting 11:28:00
11 together a schedule and read IEPs and BIPs. 11:28:03
12 But, then I guess later that week I started 11:28:08
13 treating and when I started treating CCA was 11:28:12
14 not a problem and we didn't expect CCA to be 11:28:15
15 a problem, but -- 11:28:18
16 Q. By "we" who do you mean? 11:28:19
17 A. Janet, me, the principal, 11:28:21
18 everybody. 11:28:23
19 Q. Why didn't you expect CCA to be a 11:28:23
20 problem and what do you mean by "problem"? 11:28:26
21 A. Physically for me because the kids 11:28:28
22 at CCA are older and higher functioning and 11:28:31
23 wouldn't need my physical intervention. Do 11:28:38
24 you want me to finish your question? 11:28:44
25 Q. Yes, please, I want to hear about 11:28:45

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1 Peritz
2 the discussion you had later day or the next 11:28:47
3 day.
4 A. So when I started treating at RKS 11:28:52
5 the very first kid I saw shoved me and 11:28:54
6 unfortunately because I was so weak at that 11:28:59
7 time I ended up against a table and it hurt a 11:29:06
8 lot and I freaked because my fear was that I 11:29:13
9 was going to go back to the way I was before, 11:29:19
10 not that I just banged my foot and it 11:29:22
11 would -- you know, but that oh, my God, what 11:29:26
12 if that happened again. 11:29:29
13 So, ultimately I brought the 11:29:31
14 student back to her room and rather than 11:29:34
15 treat anyone else I went back down to my 11:29:37
16 office at CCA where I had a phone and I 11:29:41
17 called Janet Weisel and I told her that this 11:29:43
18 was too difficult and I didn't think I could 11:29:47
19 do it. 11:29:50
20 Q. What do you mean by "freaked"? 11:29:51
21 A. I was scared and I was in pain and 11:29:54
22 I realized that the strength of these kids 11:29:57
23 was more than mine at that point. 11:30:02
24 Q. So at that time you called 11:30:04
25 Miss Weisel from your office phone? 11:30:06

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1 Peritz
2 A. Yes. 11:30:09
3 Q. And did you reach her? 11:30:09
4 A. Yes. 11:30:11
5 Q. Did you inform her about what had 11:30:28
6 happened? 11:30:31
7 A. Yes. 11:30:31
8 Q. And what was her response? 11:30:31
9 A. She said not to panic, that we 11:30:33
10 would deal with it and if we had to we would 11:30:35
11 talk to John Picarello, the principal, and he 11:30:41
12 said they would help me, so I should just 11:30:46
13 relax and it would all be okay. 11:30:50
14 Q. And did you feel comforted by that 11:30:52
15 conversation? 11:30:56
16 A. Yes. 11:30:56
17 Q. And did you feel that you had been 11:30:57
18 heard? 11:30:59
19 A. Yes. 11:30:59
20 Q. Was it your understanding at any 11:31:00
21 point that members of the BOCES staff were 11:31:03
22 required to circulate your accommodation 11:31:06
23 request? 11:31:09
24 A. I didn't think about it. 11:31:09
25 Q. To what extent had you told BOCES 11:31:11

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1 Peritz
2 staff that you were going to tell people as 11:31:14
3 needed that you were requiring assistance? 11:31:17
4 A. I did not tell them that. 11:31:21
5 Q. You never told BOCES that staff 11:31:23
6 that? 11:31:25
7 A. No. 11:31:25
8 Q. And then you mentioned John 11:31:31
9 Picarello, you said he was the principal of 11:31:33
10 RKS? 11:31:36
11 A. Yes. 11:31:37
12 Q. Did you request any accommodations 11:31:37
13 specifically from him? 11:31:40
14 A. Well, he was the principal who was 11:31:42
15 on the phone during that accommodation 11:31:44
16 meeting. 11:31:46
17 Q. Sure, understood. At any other 11:31:47
18 time, did you go directly to Mr. Picarello 11:31:49
19 and request assistance or an accommodation? 11:31:52
20 A. No. 11:31:54
21 Q. Do you feel that Miss Weisel 11:31:55
22 specifically disregarded the terms of the 11:31:56
23 accommodations as you state in your notice of 11:32:00
24 claim? 11:32:01
25 A. Yes. 11:32:01

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1 Peritz
2 Q. And how do you feel that? 11:32:02
3 A. Well, at some point and -- you 11:32:03
4 know, there are lots of things I wasn't 11:32:09
5 privied to at the time, but at some point I 11:32:10
6 now know an aid complained that I was not 11:32:18
7 holding the hand of a student. This was all 11:32:25
8 told to me and -- 11:32:31
9 Q. I'm sorry, before you continue with 11:32:31
10 that story which we'll probably circle back 11:32:34
11 to -- 11:32:37
12 A. It answers the question about Janet 11:32:37
13 though. 11:32:40
14 Q. Sure, I'm going to ask you further 11:32:40
15 questions though. 11:32:43
16 A. Okay. 11:32:44
17 Q. Did at anytime you ask Miss Weisel 11:32:45
18 for an accommodation that she specifically 11:32:48
19 denied? 11:32:51
20 A. No. 11:32:52
21 Q. Did at any point you ask 11:32:52
22 Miss Heller for a specific accommodation that 11:32:54
23 she specifically denied? 11:32:57
24 A. I didn't know who she was, so I 11:32:59
25 never spoke to her. 11:33:02

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1 Peritz
2 Q. So that's a no? 11:33:03
3 A. No. 11:33:04
4 Q. What do you feel Miss Heller should 11:33:05
5 have done responsive to your accommodation 11:33:08
6 request that she did not do? 11:33:11
7 A. She didn't know I had an 11:33:15
8 accommodation request. 11:33:17
9 Q. So is there any way that she failed 11:33:18
10 to reasonable accommodate you? What do you 11:33:20
11 feel that Miss Heller should have done? 11:33:24
12 A. She should have found that out. I 11:33:25
13 think when she thought there was a problem 11:33:29
14 she should have and probably did speak to 11:33:33
15 Miss Weisel in addition -- please let me 11:33:40
16 finish, in addition to which -- 11:33:45
17 Q. It's not responsive to my question, 11:33:45
18 Miss Peritz. 11:33:47
19 A. Yes, it is. 11:33:47
20 Q. No, it's not. 11:33:48
21 MS. KALLUS: We're not going to 11:33:51
22 have an argument between the two of you 11:33:52
23 about it whether it's responsive, so 11:33:53
24 just answer the question with one 11:33:54
25 sentence and then let her move on. 11:33:55

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1 Peritz
2 THE WITNESS: But, there is no one 11:33:58
3 sentence. 11:33:59
4 MS. KALLUS: Okay. 11:34:00
5 Q. How was Miss Heller supposed to 11:34:01
6 know of your accommodation request? 11:34:04
7 A. Miss Weisel should have told her or 11:34:06
8 Mr. Picarello should have told her, I did not 11:34:09
9 know who she was. 11:34:15
10 Q. You state in your notice of claim 11:34:18
11 that you asked Dr. Beer for an updated 11:34:20
12 request on October 11th; is that accurate? 11:34:24
13 A. Yes. 11:34:25
14 Q. And was that note transmitted? 11:34:26
15 A. Yes. 11:34:28
16 Q. And what was new in that note that 11:34:28
17 wasn't in the previous doctor's note? 11:34:30
18 A. That note said that I should decide 11:34:33
19 for myself what I could or could not do and 11:34:38
20 that I should not be pushed or pulled by 11:34:43
21 anyone. 11:34:49
22 Q. Now, when you say you should 11:34:50
23 determine what was needed, could you explain 11:34:53
24 that a little further? You testified earlier 11:34:56
25 that you never told BOCES that you were going 11:35:01

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1 Peritz
2 to determine your needs on any case by case 11:35:05
3 basis, so how do you -- 11:35:08
4 A. I didn't say that. 11:35:09
5 Q. You did, you testified. 11:35:10
6 A. Could you read it back because I 11:35:12
7 don't remember saying that. 11:35:14
8 MS. RUDNICKI: Off the record. 11:35:17
9 (Discussion off the record.) 11:35:18
10 Q. So you've just stated that in your 11:35:29
11 October 11th updated request from Dr. Beer 11:35:33
12 that you were going to determine what you 11:35:36
13 needed on a case by case basis; is that 11:35:38
14 accurate? 11:35:41
15 A. Not case by case, no, just in 11:35:41
16 general. 11:35:43
17 Q. And did you do that? 11:35:44
18 A. Yeah. 11:35:46
19 Q. Who did you convey those requests 11:35:46
20 to? 11:35:50
21 A. I didn't, I just responded so that 11:35:50
22 if somebody was pushing me I knew I couldn't 11:35:53
23 be pushed. What we had discussed at the 11:35:56
24 meeting was if a child was in jeopardy I 11:36:01
25 trusted that I would be able to put aside my 11:36:06

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1 Peritz
2 own physical being and do what was necessary 11:36:09
3 to keep the child safe, but that beyond that 11:36:13
4 if there was a para with me that I based my 11:36:17
5 needs on my safety. 11:36:24
6 Q. And by "para" you mean 11:36:25
7 paraprofessional? 11:36:29
8 A. Yes. 11:36:29
9 Q. Such as an aid or someone else in 11:36:30
10 the room with you? 11:36:33
11 A. Yes. 11:36:33
12 Q. So did you ever make a specific 11:36:41
13 request that was denied to anyone in 11:36:44
14 administration, any teacher, or anyone at 11:36:46
15 BOCES? 11:36:50
16 A. Not expressly, no. 11:36:50
17 Q. Did you feel your condition 11:36:52
18 affected any other aspects of your work other 11:36:54
19 than the physical interaction with students? 11:36:57
20 A. No. 11:37:01
21 Q. Is there anything else you'd like 11:37:03
22 to tell me about your accommodations that you 11:37:05
23 haven't already? 11:37:08
24 A. No. 11:37:10
25 Q. And is there anything else you'd 11:37:12

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1 Peritz

2 like to tell me about your condition that you 11:37:14

3 haven't told me already? 11:37:16

4 A. I'm doing better. 11:37:17

5 Q. Did you feel at any point that your 11:37:22

6 employer or Miss Weisel in particular had 11:37:37

7 issues with your credibility that they 11:37:41

8 expressed to you? 11:37:43

9 A. No. 11:37:45

10 Q. And would it be fair to say at some 11:37:46

11 point your employer or Miss Weisel in 11:37:51

12 particular had issues with your job 11:37:52

13 performance? 11:37:54

14 A. Yes. 11:37:56

15 Q. When was it first indicated to you 11:37:57

16 that there were issues with your job 11:38:01

17 performance? 11:38:03

18 A. After my back injury. 11:38:04

19 Q. Could you be more specific about a 11:38:09

20 date or an incident? 11:38:13

21 A. When I returned in September and 11:38:14

22 specifically only at RKS. 11:38:25

23 Q. So when Miss Weisel observed you, 11:38:30

24 she observed you both at RKS and at CCA, 11:38:35

25 correct? 11:38:41

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1 Peritz

2 A. Yes. 11:38:41

3 Q. And she only had issues with your 11:38:42

4 job performance at RKS? 11:38:43

5 A. She only expressed at RKS with the 11:38:46

6 exception of saying that I helped a little 11:38:53

7 bit too much with the student at CCA, but the 11:38:55

8 rest of BOCES at CCA was very happy with me 11:39:01

9 and that was not the case at RKS. 11:39:07

10 Q. And who specifically expressed 11:39:12

11 their happiness to you at CCA? 11:39:15

12 A. The principal, assistant principal, 11:39:16

13 and teachers and psychologists. 11:39:19

14 Q. I would like the names, if you 11:39:21

15 recall them? 11:39:23

16 A. Sure, Mr. Korolczuk, the principal, 11:39:23

17 Mr. Barrett is the AP. Oh, my goodness, 11:39:28

18 psychologists, Dr. Levy, oh, there are two 11:39:34

19 lady psychologists, I don't remember their 11:39:41

20 names, and many, many teachers. If I had a 11:39:42

21 roster I could pick them out, but -- 11:39:44

22 Q. And who expressed their displeasure 11:39:47

23 with your job performance at RKS? 11:39:51

24 A. Miss Heller. 11:39:53

25 Q. When and how did she express her 11:39:54

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1 Peritz

2 displeasure? 11:39:58

3 A. Oh, sorry, and other therapists 11:39:58

4 like Leora at CCA. 11:40:00

5 Q. Are you answering the previous 11:40:05

6 question now? 11:40:07

7 A. Yeah. Is that okay? Leora was my 11:40:07

8 mentor, she thought I was doing great. Also 11:40:11

9 at Jerusalem Avenue the year before everybody 11:40:14

10 thought I was great. At RKS the supervisor 11:40:16

11 of the OT, like the OT person ~~wasn't~~ 11:40:22

12 particularly positive. 11:40:29

13 Q. Who was that if not Miss Weisel? 11:40:30

14 A. Her name was Selena, she's like the 11:40:33

15 lead therapist. 11:40:36

16 Q. And her last name? 11:40:37

17 A. I have no idea. 11:40:38

18 Q. Could it being Roberts? 11:40:40

19 A. Yeah. 11:40:41

20 Q. And you just stated that Leora was 11:40:42

21 your mentor? 11:40:46

22 A. Yeah, Leora. I'm not sure. 11:40:47

23 Q. And was Selena Roberts not your 11:40:48

24 mentor? 11:40:51

25 A. Selena was assigned to me the last 11:40:52

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1 Peritz

2 two days, but only at RKS, Leora had been my 11:40:54

3 mentor for a whole year at CCA. 11:41:00

4 Q. So Leora was your mentor at CCA, 11:41:02

5 would it be fair to say Selena was your 11:41:04

6 mentor at RKS? 11:41:07

7 A. I don't know that it would be fair 11:41:08

8 because I only met her once. 11:41:10

9 Q. She wasn't designated in any way as 11:41:11

10 your mentor then? 11:41:13

11 A. They said she'll be your mentor, 11:41:13

12 but I met with her for 30 minutes. 11:41:16

13 Q. And what was your issue with 11:41:18

14 Miss Roberts or what was Miss Roberts' issue 11:41:20

15 with you, as far as you can tell? 11:41:24

16 A. Well, one day she followed me and I 11:41:26

17 specifically asked if she was following me 11:41:30

18 and she said she was, and then I said -- 11:41:33

19 asked her if she could help me because the 11:41:37

20 child was giving me a hard time and she said 11:41:41

21 no, she was just there to follow me. 11:41:44

22 Q. She didn't give you any 11:41:46

23 instruction? 11:41:48

24 A. No. She said "you can hold his 11:41:48

25 arms with your hands together," and then she 11:41:50

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1 Peritz
2 demonstrated, but my arms couldn't go around 11:41:54
3 him, so it didn't work and she said "okay, 11:41:56
4 just do what you're doing." 11:41:59
5 Q. Did you have any issues with staff 11:42:02
6 members or paraprofessionals? 11:42:05
7 A. Yes, in one room. 11:42:06
8 Q. What room was that? 11:42:09
9 A. 109A. 11:42:11
10 Q. What was your issue? 11:42:13
11 A. Well, I didn't know that was my 11:42:14
12 issue, but there was a staff member who 11:42:17
13 complained that I wouldn't hold a kid's hand 11:42:22
14 or that I had dropped a kid's hand, that I 11:42:26
15 was holding it, but I dropped it. 11:42:29
16 Q. When were you informed you had been 11:42:44
17 administratively assigned to your home? 11:42:47
18 A. Oh, my goodness, November 5th. 11:42:50
19 Q. And when were you informed you had 11:42:58
20 been terminated? 11:43:01
21 A. That same day. 11:43:02
22 Q. And when was your termination 11:43:05
23 effective date? 11:43:08
24 A. The last week in November, whatever 11:43:09
25 the last day was I think. 11:43:12

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1 Peritz
2 MS. KALLUS: No, let's clear up the 11:43:15
3 record, these dates are not reflected in 11:43:17
4 the notice of claim, the notice of claim 11:43:21
5 actually contains the proper dates. 11:43:23
6 MS. RUDNICKI: Understood. 11:43:26
7 Q. You allege in your notice of claim 11:43:26
8 that you did not receive 30 days notice of 11:43:27
9 your termination? 11:43:30
10 A. Yes. 11:43:30
11 Q. Firstly, what is your basis for 11:43:30
12 your claim that you're supposed to receive 30 11:43:35
13 days notice? 11:43:38
14 A. The union representative told me 11:43:38
15 that. 11:43:41
16 Q. And when did he tell you that? 11:43:42
17 A. At one of the meetings that we had 11:43:44
18 with BOCES staff. 11:43:48
19 Q. As you sit here, can you recall how 11:43:52
20 many days notice you believe you did receive? 11:43:56
21 A. I can't. 11:43:59
22 Q. So you don't know if there was a 11:44:01
23 shortfall or how many days of a shortfall 11:44:03
24 there was? 11:44:06
25 A. I don't know. There was a 11:44:06

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1 Peritz
2 shortfall, I don't know how many days of a 11:44:08
3 shortfall there were. 11:44:12
4 Q. So after you were notified of your 11:44:13
5 termination, did you at some point request a 11:44:17
6 meeting or file a grievance regarding your 11:44:20
7 termination? 11:44:23
8 A. The union representative did. 11:44:23
9 Q. So what was the first meeting you 11:44:27
10 had relative to that union representative's 11:44:35
11 effectuating a conference? 11:44:42
12 A. I don't know what that means. 11:44:49
13 Q. Sure, I can rephrase it. You 11:44:50
14 stated earlier you were informed you were 11:44:55
15 terminated let's say on or around November 11:44:58
16 5th, when did you speak to the union 11:45:00
17 representative? 11:45:03
18 A. I started speaking with him when I 11:45:04
19 first got the notice of being called to the 11:45:06
20 principal's office back in, you know, October 11:45:10
21 and then we spoke on and off many, many times 11:45:14
22 up until I had left, way after I left BOCES. 11:45:19
23 Q. So at any of your requests for 11:45:27
24 accommodation at that meeting that you had 11:45:29
25 discussed earlier, was your union 11:45:31

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1 Peritz
2 representative present for those? 11:45:33
3 A. No, he was disturbed about that 11:45:34
4 because he was supposed to be, but he wasn't 11:45:36
5 invited and I didn't know he was supposed to 11:45:39
6 be. 11:45:42
7 Q. So when in October did you first 11:45:42
8 meet with your union representative and what 11:45:45
9 was the circumstances that you first 11:45:47
10 contacted him? 11:45:49
11 A. Remember I said I walked into -- I 11:45:50
12 waited for Bonnie and I asked her if she was 11:45:55
13 Bonnie and then she said she couldn't talk to 11:45:59
14 me, so she directed me to Janet. I called 11:46:02
15 Janet, Janet said she couldn't talk to me, so 11:46:05
16 Janet directed me to the union rep, so I 11:46:09
17 called him. 11:46:11
18 Q. And that was the first interaction 11:46:12
19 you had with him? 11:46:15
20 A. Yes, I didn't know who he was 11:46:16
21 before that. 11:46:18
22 Q. What was his involvement on your 11:46:18
23 behalf subsequent to that phone conversation? 11:46:21
24 A. He was amazing, he told me all the 11:46:24
25 rules and regulations. He represented me, he 11:46:27

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1 Peritz
2 e-mailed me. He e-mailed me once at 11:46:30
3 2 o'clock in the morning saying he couldn't 11:46:33
4 sleep he was so upset that they were doing 11:46:34
5 this to me. He was just an amazing guy. 11:46:36
6 Q. When did he request a meeting 11:46:40
7 subsequent to your notice that you were being 11:46:43
8 terminated or administratively reassigned? 11:46:47
9 A. When did he? 11:46:49
10 Q. Or when did you have your follow-up 11:46:50
11 meeting after his contacting BOCES. 11:46:54
12 A. We had lots meetings, so when I -- 11:46:56
13 it was at a meeting that I was 11:47:00
14 administratively reassigned. 11:47:04
15 Q. Who was present at that meeting? 11:47:05
16 A. He was, I was, I think the head of 11:47:07
17 human recourses, Janet Weisel, and that other 11:47:12
18 guy, I don't know what he does, I think his 11:47:21
19 name is Carmine. 11:47:24
20 Q. And what was your union 11:47:26
21 representative's name? 11:47:28
22 A. Bob Dreaper. 11:47:29
23 Q. So that meeting you had when you 11:47:36
24 were administratively assigned, did you have 11:47:39
25 a subsequent meeting with HR and any other -- 11:47:42

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1 Peritz
2 A. We had lots of meetings after that 11:47:46
3 because we had to appeal it, there's a 11:47:48
4 process and you have to follow the process. 11:47:51
5 Q. You're speaking of your grievance 11:47:54
6 process? 11:47:57
7 A. Yeah. 11:47:57
8 Q. But, before the grievance was 11:47:57
9 initially filed, but after you had the 11:48:00
10 administratively reassigned meeting, did you 11:48:02
11 have any meetings? 11:48:05
12 A. I don't think so. 11:48:06
13 Q. Do you recall when the grievance 11:48:06
14 was filed or when it was initiated? 11:48:10
15 A. Right away, I mean he did it based 11:48:13
16 on whatever the time frames were. 11:48:16
17 Q. Did you attend any meeting 11:48:20
18 subsequent to your -- 11:48:22
19 A. I attended every meeting. 11:48:22
20 Q. So where was the first meeting? 11:48:24
21 A. Here, and it was with the head of 11:48:26
22 human resources and just to appeal the 11:48:29
23 situation. 11:48:34
24 Q. Meaning your termination? 11:48:34
25 A. Yeah. 11:48:36

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1 Peritz
2 Q. Were you still working at that 11:48:36
3 time? 11:48:39
4 A. Administratively reassigned. 11:48:39
5 Q. How long were you administratively 11:48:42
6 reassigned to home, that would have been 11:48:44
7 from -- 11:48:47
8 A. Like two weeks. 11:48:48
9 Q. And what happened at that meeting? 11:48:50
10 A. They denied it. 11:48:54
11 Q. They denied it on the spot? 11:48:57
12 A. I think they called probably you or 11:48:59
13 somebody, some BOCES attorney, because Bob 11:49:03
14 was arguing that what they were doing was 11:49:06
15 illegal, that technically they needed not to 11:49:09
16 let me go because they were not giving me 11:49:13
17 enough notice based on civil service law and 11:49:16
18 that the problem was if they didn't let me go 11:49:20
19 they had to give me tenure. So they called 11:49:24
20 Selma Shelton who's an attorney for -- but 11:49:30
21 also the assistant to human resources, and 11:49:35
22 she somehow got on the phone with the 11:49:38
23 attorneys. I don't know if you're the only 11:49:41
24 the attorneys. 11:49:42
25 Q. Were there attorneys present at the 11:49:43

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1 Peritz
2 meeting? 11:49:46
3 A. No, I never saw them, they were 11:49:46
4 just on the phone and they said we'll fight 11:49:47
5 it out in court, that was their answer. 11:49:51
6 Q. And that was the first meeting 11:49:53
7 relative to your grievance over the 11:49:57
8 termination? 11:50:00
9 A. Yes. 11:50:00
10 Q. Do you recall when your last day of 11:50:01
11 work was? 11:50:03
12 A. That day, whatever -- 11:50:04
13 Q. The day of the first grievance 11:50:07
14 meeting?
15 A. The day of the first meeting. I
16 left the grievance meeting -- no, I'm sorry, 11:50:09
17 I left work and came to the grievance 11:50:11
18 meeting. 11:50:16
19 Q. Did you hear somebody tell you that 11:50:17
20 they were going to take it up in court or did 11:50:25
21 Mr. Dreaper relay that to you afterwards? 11:50:28
22 A. Well, they said it during the 11:50:31
23 meeting, the lawyers. 11:50:34
24 Q. So you heard that? 11:50:34
25 A. Yeah, the lawyers said that they're 11:50:35

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1 Peritz
 2 within their rights and we'll take it up in 11:50:38
 3 court, they were not going to -- 11:50:40
 4 Q. So no offer was made or no 11:50:44
 5 settlement?
 6 A. Not at that time, no. 11:50:47
 7 Q. Was there another step in the 11:50:48
 8 grievance process? 11:50:53
 9 A. Yeah, I think there were two more 11:50:53
 10 steps or one more. I'm not quite sure, but 11:50:56
 11 there was another step where we met with the 11:50:57
 12 president of BOCES. I'm not quite sure 11:51:03
 13 that's his title, but upstairs, and a woman 11:51:07
 14 who's his assistant president. I know I'm 11:51:11
 15 saying these titles wrong, but I don't know 11:51:15
 16 what their names are, I'm sorry, and we 11:51:18
 17 also -- there were definitely two meetings 11:51:22
 18 with them because one meeting Bob did all the 11:51:25
 19 talking and the next meeting I said that I 11:51:28
 20 wanted to speak too. 11:51:31
 21 Q. So at the first meeting was any 11:51:32
 22 offer made or any settlement negotiation 11:51:38
 23 entered into? 11:51:41
 24 A. No. 11:51:42
 25 Q. And you said you may be having the 11:51:42

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1 Peritz
 2 title wrong, but the principal and maybe an 11:51:47
 3 assistant? 11:51:48
 4 A. Not principal, president. 11:51:48
 5 Q. Could it have been the 11:51:50
 6 superintendent? 11:51:52
 7 A. Yeah. There you go, thank you. 11:51:52
 8 Q. And you were present with your 11:51:54
 9 representative? 11:51:56
 10 A. Yes. 11:51:56
 11 Q. Anyone else present? 11:51:57
 12 A. The assistant superintendent. 11:51:58
 13 Q. What demand did you make, if any, 11:52:03
 14 or you and Mr. Dreaper? 11:52:08
 15 A. We just said what they had done was 11:52:12
 16 illegal and that I wanted to return to work, 11:52:14
 17 that's it. 11:52:18
 18 Q. You didn't make any other demand? 11:52:21
 19 Did you want to become -- 11:52:24
 20 A. Well, I didn't ask for tenure, but 11:52:27
 21 in order to return me to work they had to 11:52:31
 22 give me tenure. That wasn't my demand, 11:52:34
 23 unfortunately that's the civil service 11:52:37
 24 requirement. 11:52:41
 25 Q. Did you yourself ever ask for that? 11:52:43

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1 Peritz
 2 A. No. 11:52:46
 3 Q. Then you said there was a third 11:52:49
 4 grievance meeting, but a second meeting with 11:52:53
 5 the superintendent? 11:52:54
 6 A. And the assistant superintendent. 11:52:57
 7 Q. And it was the same people present, 11:52:59
 8 you and Mr. Dreaper? 11:53:01
 9 A. Yes. 11:53:02
 10 Q. And what was discussed at that 11:53:03
 11 meeting? 11:53:05
 12 A. Well, the same thing, basically the 11:53:05
 13 exact same thing. The only difference is at 11:53:08
 14 that meeting I asked him to speak and I said 11:53:08
 15 that I was a really good therapist, that 11:53:12
 16 every single place I worked and every family 11:53:16
 17 I worked with is really positive to me that I 11:53:20
 18 work through St. Mary's with the exact same 11:53:26
 19 population that exists at RKS. In fact, some 11:53:30
 20 of those very same kids are at RKS and that I 11:53:34
 21 wanted them to realize that they were 11:53:41
 22 affecting a huge impact on someone's life. 11:53:43
 23 This wasn't just an arbitrary thing, this is 11:53:47
 24 my life that is happening and that I'm doing 11:53:52
 25 so much better physically and that I wanted 11:53:57

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1 Peritz
 2 to come back. 11:54:01
 3 Q. Was there any response, any offer 11:54:05
 4 of settlement, any negotiations entered into? 11:54:08
 5 A. No, they always say that they will 11:54:10
 6 get back to us. 11:54:13
 7 Q. At any point did you convey to the 11:54:15
 8 superintendent or to anyone present that you 11:54:18
 9 had retained counsel? 11:54:20
 10 A. Oh, I kept saying all along I'm 11:54:22
 11 going to get an attorney, I'm going to get an 11:54:25
 12 attorney, but, no, I did not have counsel at 11:54:27
 13 that point. 11:54:32
 14 Q. When did you receive the ultimate 11:54:32
 15 ruling on the grievance from the 11:54:37
 16 superintendent, do you recall? 11:54:39
 17 A. I don't. But, at some point Bob 11:54:40
 18 called me and said he actually received it on 11:54:43
 19 his voice mail the first time and then second 11:54:46
 20 time a letter and then we went to meet with a 11:54:50
 21 bigger union to appeal this. 11:55:01
 22 Q. And did you appeal it? 11:55:05
 23 A. We started, yes, and -- 11:55:07
 24 Q. I'm sorry, by "bigger union" do you 11:55:10
 25 know what you mean, a parent union? 11:55:13

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<p>1 Peritz</p> <p>2 A. Yeah, not the BOCES union anymore, 11:55:15</p> <p>3 but like the -- I don't know. It's actually 11:55:18</p> <p>4 in Woodbury, it's close to my house. 11:55:22</p> <p>5 Q. And how far did you get in that 11:55:25</p> <p>6 appeal process? 11:55:27</p> <p>7 A. I met with this guy who is the 11:55:30</p> <p>8 union rep with Bob and discussed all the 11:55:36</p> <p>9 situation and he spoke to a lawyer to find 11:55:42</p> <p>10 out how it could appeal, how it could be 11:55:45</p> <p>11 appealed, and they discussed -- what do you 11:55:51</p> <p>12 call it? Rights. I don't know, disabled 11:55:53</p> <p>13 rights, and why it was not okay. I forget 11:56:00</p> <p>14 the exact term, sorry. And then they were 11:56:09</p> <p>15 going to file, but -- human rights, sorry. 11:56:15</p> <p>16 But, then we had again problems 11:56:21</p> <p>17 with all the time frames and so I 11:56:27</p> <p>18 decided -- they could only represent me for 11:56:32</p> <p>19 part of it, not for all of it, and I decided 11:56:36</p> <p>20 to start investigating attorneys. And that's 11:56:43</p> <p>21 what I did and I met with a couple of them 11:56:46</p> <p>22 and spoke to a couple of people on the phone 11:56:52</p> <p>23 and then just to like jump you and then BOCES 11:56:55</p> <p>24 actually made an offer because you asked 11:57:03</p> <p>25 every time, so -- 11:57:06</p>	<p>1 Peritz</p> <p>2 Q. And then what happened with that 11:58:00</p> <p>3 offer, did you reply to it? 11:58:03</p> <p>4 A. I told Bob that that was a great 11:58:05</p> <p>5 start, but that I had left a really good job 11:58:10</p> <p>6 and that I had retirement benefits that I 11:58:13</p> <p>7 wasn't contributing to anymore, no one was 11:58:18</p> <p>8 contributing to, that I had no earnings for 11:58:21</p> <p>9 several months until I started making money 11:58:26</p> <p>10 again, and that it just wasn't enough. 11:58:30</p> <p>11 Q. When you say that you had no 11:58:35</p> <p>12 earnings, you were not continuing with 11:58:39</p> <p>13 your -- 11:58:43</p> <p>14 A. Sorry, no additional earnings. I 11:58:44</p> <p>15 was working after school for two to three 11:58:46</p> <p>16 hours, so it certainly wasn't enough to pay 11:58:51</p> <p>17 my mortgage let alone anything else and it 11:58:54</p> <p>18 was right before Christmas, so good luck 11:58:57</p> <p>19 finding anything else. 11:59:00</p> <p>20 Q. So then did you reply to that offer 11:59:03</p> <p>21 with a counteroffer, did you reject the 11:59:06</p> <p>22 offer? 11:59:08</p> <p>23 A. Yeah, I just said that, what I just 11:59:08</p> <p>24 told you. 11:59:12</p> <p>25 Q. And what was the reply to that? 11:59:12</p>
Page 119	Page 121
<p>1 Peritz</p> <p>2 Q. So after you had received the 11:57:08</p> <p>3 superintendent's ruling on your grievance, 11:57:12</p> <p>4 you received an offer or this is before? 11:57:15</p> <p>5 A. No, after. 11:57:18</p> <p>6 Q. After the district superintendent. 11:57:19</p> <p>7 Can I presume that he denied the grievance? 11:57:21</p> <p>8 A. Yes. 11:57:24</p> <p>9 Q. And then you received an offer from 11:57:24</p> <p>10 BOCES? 11:57:26</p> <p>11 A. Yes. 11:57:27</p> <p>12 Q. Who did you receive that offer 11:57:27</p> <p>13 from? 11:57:29</p> <p>14 A. Bob, I don't know who made it to 11:57:29</p> <p>15 Bob. 11:57:31</p> <p>16 Q. What was the offer? 11:57:31</p> <p>17 A. I think it was health insurance 11:57:35</p> <p>18 paid until June maybe, something like that. 11:57:42</p> <p>19 Q. From the end of November to 11:57:48</p> <p>20 continue into June? 11:57:51</p> <p>21 A. Yes. 11:57:53</p> <p>22 Q. Anything else? 11:57:54</p> <p>23 A. No. 11:57:55</p> <p>24 Q. Just health insurance? 11:57:56</p> <p>25 A. Yes. 11:57:57</p>	<p>1 Peritz</p> <p>2 A. They I guess were in the process of 11:59:15</p> <p>3 thinking about it, but then we had a deadline 11:59:19</p> <p>4 and that was the problem. In order to file 11:59:22</p> <p>5 maybe for this hearing, I'm not sure, we had 11:59:26</p> <p>6 to move ahead based on dates and they knew 11:59:28</p> <p>7 that. And I said that to Bob, I said, you 11:59:33</p> <p>8 know, unless they respond really, really fast 11:59:37</p> <p>9 it all becomes moot because if I don't do 11:59:40</p> <p>10 something else I'm precluded from doing it 11:59:44</p> <p>11 and so they didn't do anything else, so -- 11:59:47</p> <p>12 Q. Is that when the negotiations 11:59:52</p> <p>13 ended? 11:59:54</p> <p>14 A. Yes. 11:59:54</p> <p>15 Q. And did you again continue working 11:59:55</p> <p>16 with Mr. Dreaper? 11:59:59</p> <p>17 A. No, he can't. Once I have an 12:00:00</p> <p>18 attorney, he can't. 12:00:04</p> <p>19 Q. And you don't recall what 12:00:04</p> <p>20 administrative proceeding or what was 12:00:09</p> <p>21 actually the deadline moving for? 12:00:09</p> <p>22 A. It was for the legal proceeding. 12:00:11</p> <p>23 Q. For bringing the action? 12:00:11</p> <p>24 A. Yeah, it wasn't for administration, 12:00:14</p> <p>25 we had gone through it, it just took -- it 12:00:17</p>

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1 Peritz
2 takes a long time and it's just that one 12:00:20
3 deadline was leading on to another. It also 12:00:22
4 seemed to me at one point that their 12:00:25
5 deadlines weren't going anywhere, I had -- at 12:00:27
6 the first meeting I was hopeful, second 12:00:30
7 meeting I was a little bit less hopeful, even 12:00:32
8 Bob was hopeful, and then at some point it 12:00:36
9 became just an exercise in futility, we just 12:00:38
10 have to do it. 12:00:43
11 Q. So on page six of your notice of 12:00:44
12 claim you make a request for one million 12:00:47
13 dollars, do you feel that's an accurate 12:00:49
14 amount relative to your claims? 12:00:52
15 A. Yes. 12:00:54
16 Q. Do you have any documentation to 12:00:55
17 support what your monthly pay would have been 12:00:58
18 if you were tenured? 12:01:01
19 A. I would have paychecks, but I'm 12:01:02
20 sure you have them as well. I don't have 12:01:04
21 them with me, but what I don't have is -- and 12:01:07
22 I have health benefit, bills. But, what I 12:01:11
23 don't have is things like retirement and so 12:01:14
24 forth because originally I joined the 12:01:18
25 retirement system back in 1978, '80, when I 12:01:21

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1 Peritz
2 worked at CUNY and then it was transferred to 12:01:27
3 the DOE and then I ultimately transferred it 12:01:31
4 to BOCES and it becomes impossible. I mean 12:01:34
5 I'm sure somebody can estimate it, I just 12:01:41
6 can't. 12:01:44
7 Q. How long would you calculate you 12:01:44
8 would have worked had you been tenured? 12:01:46
9 A. Until I'm 65. 12:01:46
10 Q. And what health benefits do you 12:01:51
11 understand you would have received as a 12:01:52
12 tenured employee? 12:01:54
13 A. I think you ultimately get it 12:01:56
14 forever once you do it after a certain time, 12:01:58
15 so it transfers, you know, back up to 12:02:02
16 Medicare or something like that. 12:02:08
17 Q. And that's health insurance? 12:02:10
18 A. Yes. 12:02:13
19 Q. Any other health related insurances 12:02:14
20 that you would be provided? 12:02:17
21 A. My teeth, dentist. I don't know. 12:02:21
22 Q. Do you have any documentation 12:02:25
23 regarding that? 12:02:27
24 A. Yeah, it's somewhere in the 12:02:28
25 contract. I don't have it with me, but it's 12:02:30

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1 Peritz
2 in the book. 12:02:32
3 Q. And what retirement benefits do you 12:02:35
4 understand you would have received upon your 12:02:37
5 retirement as a tenured employee? You said 12:02:40
6 you would get health benefits for the rest of 12:02:43
7 your life? 12:02:46
8 A. Yeah, and you get your retirement, 12:02:46
9 whatever it is. And I was in a great 12:02:49
10 situation because I joined so long ago and 12:02:51
11 because it was transferred from place to 12:02:55
12 place I did not need to contribute. Like now 12:02:57
13 the laws are changing and you have to 12:03:01
14 contribute, but I never had to, so it was all 12:03:03
15 contributed by BOCES. 12:03:06
16 Q. And since you were terminated by 12:03:09
17 Nassau BOCES, you stated earlier that you've 12:03:14
18 been self-employed, correct? 12:03:17
19 A. Yes. 12:03:18
20 Q. Have you applied to any other jobs? 12:03:18
21 A. No, just the Nassau County list, 12:03:21
22 but not really. 12:03:25
23 Q. Did you have to put your name back 12:03:26
24 on the list or apply again? 12:03:29
25 A. It's still there, but it's midyear 12:03:30

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1 Peritz
2 still, so -- 12:03:35
3 Q. And have you been contacted by any 12:03:35
4 jobs off that list recently? 12:03:38
5 A. Yeah, a couple of times for 12:03:39
6 part-time things, but now I am working -- 12:03:42
7 like when I originally got the off from BOCES 12:03:45
8 I was working in the school, now I have 12:03:49
9 private patients so I can't take a part-time 12:03:52
10 position because I would have to walk out on 12:03:56
11 people. 12:03:59
12 Q. So before the events we've 12:03:59
13 discussed, have you ever treated with a 12:04:01
14 psychologist, a psychiatrist, or a mental 12:04:03
15 health professional? 12:04:08
16 A. Yes. 12:04:09
17 Q. Who were you treating with? 12:04:10
18 A. Oh, I don't know. My mom passed 12:04:12
19 away in 2012, so I was treating with a 12:04:15
20 counselor called Sage Hill and then a 12:04:27
21 Columbia program, primarily like that stuff. 12:04:33
22 Q. Was it primarily related to grief 12:04:38
23 counseling? 12:04:42
24 A. Yes. 12:04:42
25 Q. Have you treated with a mental 12:04:42

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1 Peritz

2 health professional for any other reason? 12:04:45

3 A. Yeah, family problems and so forth, 12:04:46

4 yes. 12:04:49

5 Q. Any diagnosis, anxiety, depression? 12:04:49

6 A. No. 12:04:52

7 Q. Do you recall any other names of 12:04:57

8 providers? 12:04:59

9 A. No, Columbia had a grief thing. 12:05:00

10 Q. And since the events we've 12:05:05

11 discussed, have you been treating with a 12:05:08

12 mental health professional? 12:05:11

13 A. Yes. 12:05:12

14 Q. Who are you treating with? 12:05:13

15 A. I'm treating with a social worker, 12:05:14

16 Susan Levine. 12:05:25

17 Q. Where is she located? 12:05:26

18 A. Long Island, Nassau County, 12:05:28

19 Q. And how long have you been seeing 12:05:30

20 her for? 12:05:33

21 A. I don't know. Six months, 12:05:34

22 something like that, for some family issues 12:05:36

23 primarily. 12:05:40

24 Q. And that's individual or group? 12:05:48

25 A. Individual. Well, at some point I 12:05:50

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1 Peritz

2 had family members there too. 12:05:53

3 Q. Has there been any diagnosis or 12:05:56

4 medication prescribed relative to that? 12:06:03

5 A. No. 12:06:05

6 Q. Are you treating with anyone else 12:06:06

7 for any other reason related to the events in 12:06:07

8 your claim, any physical issues that have 12:06:10

9 arisen because of your termination or health 12:06:17

10 issues? 12:06:17

11 A. Not from my claim, just continued 12:06:17

12 back pain, high blood pressure, medical 12:06:21

13 doctor. 12:06:25

14 Q. Is there anything you can't do now 12:06:25

15 that you could do before you were terminated? 12:06:27

16 A. Worse? Are you asking if there's 12:06:31

17 anything worse in my condition? 12:06:34

18 Q. No, if there's anything you can't 12:06:36

19 do based on the events that you described 12:06:38

20 based on the termination and subsequent 12:06:41

21 grievance process. Have you been altered in 12:06:43

22 such a way or affected in such a way that 12:06:47

23 there's things you can't do now? 12:06:50

24 A. No. 12:06:51

25 Q. Is there anything else you'd like 12:06:52

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2 to tell me that you haven't already regarding 12:06:53

3 any damages that you're claiming? 12:06:57

4 A. No. 12:06:59

5 Q. Is there anything else you would 12:07:00

6 like to tell me that you haven't already 12:07:03

7 regarding any emotional distress you may have 12:07:05

8 suffered? 12:07:09

9 A. No, I mean just that I was working 12:07:09

10 in the DOE and I never would have left that 12:07:12

11 position and by never I mean until I was 65 12:07:18

12 were it not for the fact that something was 12:07:24

13 promised that didn't happen. 12:07:27

14 Q. Have you applied back to the DOE? 12:07:30

15 A. Sadly because I left without giving 12:07:33

16 enough notice I'm not really eligible to go 12:07:39

17 back. 12:07:42

18 Q. That's exclusively based on not 12:07:43

19 giving enough notice? 12:07:46

20 A. Yeah. 12:07:47

21 Q. How much notice did you say you 12:07:48

22 gave to the DOE? 12:07:50

23 A. Well, the first time it was less 12:07:51

24 than 30 days, but the problem was the second 12:07:53

25 time. The first time it was okay, the second 12:07:57

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1 Peritz

2 time they had specifically accommodated me 12:08:02

3 that I could stay two days a week and then 12:08:06

4 when I was offered full-time despite the fact 12:08:12

5 that my principal was amazing and said you 12:08:17

6 have to do what you have to do and if it 12:08:23

7 makes sense because of the commute, the 12:08:25

8 greater like personnel department doesn't see 12:08:31

9 it that way. 12:08:34

10 Q. Miss Peritz, have you made any 12:08:38

11 audio recordings or video recordings of any 12:08:41

12 meetings or phone calls or discussion related 12:08:44

13 to these claims? 12:08:46

14 A. No.

15 Q. Have you saved any voice mails or 12:08:47

16 messages related to these claims? 12:08:50

17 A. I don't know if there are any voice 12:08:52

18 mails, but, no, not specifically. I don't 12:08:54

19 always erase all of my voice mails, so I may 12:08:57

20 have a voice message saying call me or 12:09:00

21 something, but -- 12:09:02

22 MS. RUDNICKI: I'm just going to 12:09:03

23 ask for a minute, I'm going to go 12:09:04

24 through if there anything else. 12:09:07

25 (Short recess was taken.) 12:13:00

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1 Peritz
2 Q. So, Miss Peritz, I just have a 12:13:00
3 couple of questions for you and then I think 12:13:01
4 we'll be done. 12:13:04
5 A. Great. 12:13:05
6 Q. What was your rate of paid at DOE 12:13:05
7 or your salary? 12:13:09
8 A. Senior OT status, so I don't know, 12:13:10
9 plus longevity. I don't know the exact 12:13:17
10 number, but it was comparable to BOCES. 12:13:18
11 Q. I don't know what would be 12:13:22
12 comparable to BOCES, do you have a rough 12:13:23
13 figure? 12:13:26
14 A. I don't know, like in the sixties. 12:13:26
15 Q. And that's what was being offered 12:13:28
16 as a part-time for BOCES? 12:13:31
17 A. No, of course not, so that's 12:13:33
18 comparable to the full-time in BOCES. 12:13:37
19 Q. What were you being offered for the 12:13:38
20 part-time at BOCES, what was your rate of 12:13:41
21 pay? 12:13:44
22 A. Three-fifths of what the full-time 12:13:44
23 salary is. 12:13:47
24 Q. And the full-time you stated was 12:13:48
25 about what you were -- 12:13:49

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1 Peritz
2 A. Somewhere in the sixties. 12:13:49
3 Q. About what you were getting at DOE? 12:13:51
4 A. Yeah. 12:13:54
5 Q. What is your rate or pay scale at 12:13:55
6 your own company, what do you charge? 12:13:59
7 A. It's very different because I'm -- 12:14:03
8 I only have one private patient, everybody 12:14:10
9 else is determined by either St. Mary's or 12:14:14
10 Nassau County early intervention, so early 12:14:18
11 intervention you're -- every case you're paid 12:14:28
12 per session, so St. Mary's we get \$63 for 30 12:14:29
13 minutes. Is that what you're asking? 12:14:36
14 Q. Sure, yes. 12:14:37
15 A. And in Nassau County you get \$59 12:14:41
16 for 45 minutes and more money if it's a 60 12:14:50
17 minute treatment, there are no 30 minute 12:14:59
18 treatments anymore, and then preschool is 12:15:02
19 something like \$40 for 30 minutes. 12:15:06
20 (Jurat contained on next page.)
21
22
23
24
25

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1 Peritz
2 Q. Okay, thank you. 12:15:13
3 A. If you do it privately, I mean 12:15:15
4 through your own company as opposed to 12:15:17
5 through an agency. 12:15:19
6 MS. RUDNICKI: Okay, thank you very 12:15:20
7 much for your time today. 12:15:21
8 THE WITNESS: Sure.
9 (Time noted: 12:15 p.m.)
10
11
12
13
14

DIANE PERITZ

15 Subscribed and sworn to before me
16 this day of 2016.
17
18
19
20
21
22
23
24
25

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1
2 CERTIFICATE
3 STATE OF NEW YORK)
4 : ss.
5 COUNTY OF SUFFOLK)
6
7 I, GAIL M. MASCARO, a Notary Public
8 within and for the State of New York, do
9 hereby certify:
10 That DIANE PERITZ, the witness
11 whose deposition is hereinbefore set
12 forth, was sworn and that such
13 deposition is a true record of the
14 testimony given by such witness.
15 I further certify that I am not
16 related to any of the parties to this
17 action by blood or marriage and that I
18 am in no way interested in the outcome
19 of this matter.
20 IN WITNESS WHEREOF, I have hereunto
21 set my hand this 21st day of April,
22 2016.
23
24
25

GAIL M. MASCARO

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